January 15, 2002

NONCONFIDENTIAL VERSION

VIA ELECTRONIC MAIL AND
U.S. MAIL

Ms. Gloria Blue
Executive Secretary, Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Re: Certain Steel Products, TA-201-73

Dear Ms. Blue:

On behalf of Bethlehem Steel Corporation, LTV Steel Company, Inc., National Steel Corporation, and United States Steel Corporation (collectively, "Domestic Producers"), we hereby submit the Nonconfidential Version of Domestic Producers' Rebuttal to Comments Regarding the Action the President Should Take Under Section 203(a) of the Trade Act of 1974, as well as the Executive Summary to these Comments, as requested by the Trade Policy Staff Committee. See 66 Fed. Reg. 54,321 (Oct. 26, 2001); 66 Fed. Reg. 67,349 (Dec. 28, 2001).

Pursuant to 15 C.F.R. § 2003.6, Domestic Producers request proprietary treatment for business confidential information appearing on pages iii and 16 and Exhibits 5 and 6. This information concerns or relates to: detailed price information for specific transactions or proposed transactions. Disclosure of this information, which is not otherwise publicly available, would cause serious and substantial harm to the competitive position of Domestic Producers. This business confidential information is not capable of public summary.

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As requested, one copy of this submission has been mailed to the address identified in the Federal Register notice, and a copy has been transmitted electronically to the e-mail address identified in the Federal Register notice (FR0001@ustr.gov).

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On behalf of Domestic Producers

Enclosures

NONCONFIDENTIAL VERSION

BEFORE THE UNITED STATES TRADE REPRESENTATIVE
AND
THE TRADE POLICY STAFF COMMITTEE

Inv. No. TA-201-73
CERTAIN STEEL PRODUCTS

Rebuttal to Comments Regarding the Action the President Should Take
Under Section 203(a) of the Trade Act of 1974

Filed on Behalf of Bethlehem Steel Corporation, LTV Steel Company, Inc.,
National Steel Corporation and United States Steel Corporation

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OVERVIEW

Massive global excess steel production capacity and rampant foreign government intervention have led to record levels of low-priced imports, driving domestic steel prices to historic lows and forcing a substantial number of American steel companies into bankruptcy. In response, President George W. Bush launched a three-part initiative to (1) address global excess capacity, (2) discipline foreign government subsidies and other market-distorting practices, and (3) investigate the serious injury to the domestic industry caused by imports.

In response to the third part of the President's program, the U.S. International Trade Commission undertook an exhaustive investigation of the state of the domestic steel industry and the causes of its present predicament. The Commission unanimously determined that the flat-rolled steel industry has been seriously injured by imports. Five out of the six Commissioners subsequently recommended significant tariffs of 20 to 40 percent to remedy this injury and permit the industry to restructure and adjust.

A significant tariff remedy of 40 percent over four years is essential if the domestic industry is to recover from the serious injury it has suffered. Such a tariff remedy is critical to restore prices to pre-crisis levels and to permit the industry to make needed investments. To be effective, however, the remedy must apply to all flat products, including slab. Slabmaking is where a substantial percentage of the value in steel production occurs. If imports of very low-priced slabs are permitted to continue unabated, the domestic steelmaking industry will be driven out of existence.

A substantial tariff remedy is also essential if the other two parts of the President's steel program are to be successful. Foreign producers will not take significant steps to reduce excess production capacity if they can continue to unload their excess production in the U.S. market with impunity. Likewise, the subsidies and other market distorting practices which are at the heart of the global excess capacity problem will only be seriously addressed when it is clear that the resulting excess supply cannot be dumped in this market.

The cost of such action for domestic consuming industries will be moderate. Economic modeling based on 2001 data indicates that prices for flat steel products will increase only by 6.8 to 8.9 percent. By contrast, failure to act will lead to the closure of a substantial number of steel producing facilities in this country, and massive dislocations for workers and communities.

Based on the facts, there can be no doubt that significant import relief is fully justified under Section 201. The President should seize this opportunity to address this crisis by implementing a comprehensive tariff remedy to the fullest extent permitted by law.

I. THE PRESIDENT HAS A UNIQUE OPPORTUNITY TO SOLVE LONG-TERM PROBLEMS ASSOCIATED WITH THE STEEL INDUSTRY

The President is acting in this matter at a profound moment in time. The domestic flat-rolled steel industry faces a crisis more severe than any in its long and proud history. A number of factors, however, also make this a time of unique opportunity to fundamentally address the problems associated with the international trade in steel. Significant tariff relief under Section 201 will not only lead to a strong and healthy steel industry in this country; it will critically enhance the President's ability to fulfill his steel program, including his effort to eliminate uneconomic and excess world steel capacity.

II. RESPONDENTS' ATTEMPTS TO REARGUE ISSUES PROPERLY DECIDED BY THE INTERNATIONAL TRADE COMMISSION MUST BE REJECTED

The Statute Makes Clear That The President Should Not Revisit Injury Issues Decided By The Commission. The statutory scheme clearly vests in the Commission the authority to determine whether an industry in the United States has been seriously injured by foreign imports. Nowhere does the statute suggest that the President should re-weigh the evidence submitted to the Commission during the injury phase of a Section 201 investigation. Instead, the President is charged with determining, based upon the recommendations of the Commission, the type of relief that would be needed to facilitate positive import adjustment. To the extent the Respondents re-argue the issue of injury, their arguments must be rejected.

The Primary Injury Arguments Made By Respondents Were Fully Addressed – And Properly Rejected – By The Commission. The evidence fully supports the Commission's conclusion that slabs, hot-rolled steel, plate, cold-rolled steel, and corrosion-resistant steel all constitute a single like product. The evidence also shows that the statutory requirement of "increased imports" was met, as imports increased dramatically from 1996 to 2000. The Commission considered, and properly rejected, the claim that alternate causes, such as mini-mill competition or domestic industry legacy costs, were a more important cause of injury than imports.

III. THE PRESIDENT SHOULD REJECT THE ALTERNATIVE REMEDIES SUGGESTED BY RESPONDENTS

A. Negotiations To Reduce Foreign Excess Capacity Are Not A Viable Alternative To Section 201 Relief

Domestic Producers certainly support the President's efforts to persuade foreign producers to eliminate the excess capacity that lies at the root of this industry's problems. But such negotiations are not an alternative to the relief the industry needs. Indeed, given the determination of many foreign countries to maintain their bloated steel industries, these negotiations will not be successful unless relief is put in place that forces these countries to take seriously the concerns the President has expressed.

B. Section 201 Relief Will Provide Substantial Relief To The Domestic Industry

A 40 percent tariff on all flat-rolled products (subject to a minimum \$100 per ton duty for slabs, not to exceed 50 percent ad valorem) would increase industry revenue by \$2.8 billion and operating income by \$1.4 billion. Further, over \$500 million annually would be available in tariff revenue to distribute to the domestic industry to promote consolidation. Given these significant results, the President should reject the argument of those respondents who claim the domestic industry can obtain little or no relief from any remedy under Section 201. In fact, recent market developments show that prices have already started to increase as import orders slow in anticipation of significant relief under Section 201.

C. Alternative Remedy Proposals Should Be Rejected As Inadequate

1. Respondents Have Articulated Incorrect Legal Standards

The President should disregard the numerous incorrect legal arguments put forward by the respondents with regard to remedies. Eurofer contends that tariffs cannot be imposed in a manner that will reduce imports below their historical levels, but Article 5.1 of the WTO Safeguards Agreement makes plain that this principle applies only to quantitative restrictions, not to tariffs. Eurofer also argues that any safeguard remedy should benefit only the lowest-performing companies, but this standard is without basis in law or WTO rules. Other respondents claim that Section 201 itself favors quota remedies, but the Commission has explained that tariffs are more consistent with the mandate of the statute to address the serious injury suffered by the domestic industry. Finally, certain respondents have argued that the President is obliged to treat the Commission's vote on tin mill products as a negative determination, but the Commission explicitly stated that its vote gave the President the option to provide relief on tin-mill products.

2. Respondents' Alternative Remedy Proposals Should Be Rejected

The President Must Reject The Argument That Trade Assistance Alone Is Sufficient. The Commission has unanimously found that the domestic industry has been seriously injured by imported flat-rolled products. Without an adequate Section 201 remedy, this industry will not successfully adjust to import competition. Furthermore, as has been previously demonstrated, trade adjustment assistance is not sufficient to remedy the serious injury in question.

The President Must Reject The Arguments Of Those Who Advocate Quantitative Restrictions Only. Tariffs are far preferable to quotas for a number of reasons. Tariffs do not distort trade in the way that quotas do because they rely on price signals rather than the allocation of quantities by government regulators to foreign producers. Tariffs are less costly to the national economy because the United States captures the tariff revenue. Under quotas, the foreign producers obtain the benefit of the higher prices, often referred to as "quota rents." Tariffs are also much easier to administer.

D. The Same Remedy Should Be Applied To Slabs As Is Applied To Other Flat Products

1. Domestic Slab Producers Need Significant Tariff Relief

Slab and the other flat-rolled products are fundamentally interrelated, both in terms of the process by which they are produced and in terms of the markets in which they are sold. Thus, the same remedy should apply to all flat-rolled products. Absent effective relief on slab, the cost advantages associated with low-priced imported slab will cause more and more domestic producers to close their slabmaking facilities, and adopt the business model of those companies that have chosen to stop making raw steel in this country. Such closures will be devastating, as the slabmaking process is where most of the technological innovations take place in the flat-rolled industry, and is also where the great majority of the value of the product is added.

The tariff-rate quota ("TRQ") proposed by the Commission plurality is not an adequate remedy on slabs. The TRQ – which features a very high duty-free quota of 7 million NT the first year – would reduce the operating income effect by almost 60 percent compared to the Domestic Producers' proposed remedy. Without this revenue, the domestic industry cannot make the $7 billion to $9 billion in new investments that are needed to adjust to import competition.

Those companies that import slabs would not be significantly harmed by granting significant tariff relief on slabs. These companies will continue to have a significant cost advantage over those domestic firms which make their own slabs, and will still be able to benefit from the higher prices the tariffs will provide on other finished products. Furthermore, the President should reject the argument that no company will sell slabs because it would prefer to sell higher-value added products. If true, this argument would mean that no domestic producer would want to sell hot-rolled steel. Plainly, domestic steel companies would rather sell slab than continue shutting down their blast furnaces.

2. Respondents' Proposed Changes To The Commission's Recommended Slab Remedy Should Be Rejected

Incredibly, the slab importers advocate for a TRQ that would allow even more duty-free imports, even though the TRQ proposed by the Commission plurality is already set far above the current level of imports. The estimates of slab requirements used to support this argument are grossly inflated. For example, the requirements the parties give for certain slab importers are based on their rolling capacity, not their actual capacity utilization. Other estimates are based on unconfirmed plans that may never come to fruition. The President should reject these inaccurate projections, and impose comprehensive relief on all flat-rolled products, including slab.

E. The Existence Of Antidumping And Countervailing Duty Orders Against Imports Of Certain Flat-Rolled Products Does Not Justify A Reduced Remedy In This Proceeding

In considering the amount of relief to provide to the domestic industry, the President should recognize that the existence of antidumping and countervailing duty orders against imports of certain flat-rolled products provides no basis to weaken the relief advocated by the Domestic Producers. First, it has long been recognized that antidumping and countervailing duty orders are not designed to facilitate the domestic industry's adjustment to import competition, which is one of the purposes of Section 201. Second, even if the current antidumping and countervailing duty orders were sufficient to prevent future harm, only significant tariff relief under Section 201 can help to remedy the injury that has already occurred. Third, significant product- and country-switching has acted to evade antidumping and countervailing duty orders and necessitated comprehensive relief under Section 201.

IV. SIGNIFICANT TARIFF RELIEF FOR THE DOMESTIC INDUSTRY WOULD CLEARLY PROVIDE GREATER ECONOMIC AND SOCIAL BENEFITS THAN COSTS

A. The Economic And Social Benefits Of Significant Tariff Relief Will Be Enormous

Significant tariff relief offers enormous benefits for the U.S. and world economies. It will save the domestic flat-rolled steel industry, giving consumers the opportunity to buy steel from a variety of competitive and innovative producers. It will help those communities and related industries that depend upon the steel industry. It will strengthen the President's efforts to reduce excess steel capacity worldwide. The analyses put forward by the respondents completely disregard these profound benefits.

B. The Respondents Have Made A Number Of Erroneous Claims Concerning The Cost Of Relief

The respondents' arguments concerning relief are fundamentally inconsistent. On the one hand, respondents contend that the domestic industry will not benefit from tariff relief, because such relief will not lead to significantly higher prices. On the other hand, respondents also claim that consumers will be severely harmed by higher steel prices. It is of course entirely implausible to argue that consumers will be seriously harmed by a tariff that has no price effect in the market. In fact, the remedy proposed by Domestic Producers will lead to modest price increases that will benefit the domestic industry without being excessive or unreasonable in terms of their effect on the market. The respondents also contend that tariffs would lead to dramatic shortages in the marketplace. However, given the nature of a tariff remedy, and given the comprehensive process underway to consider product exclusion requests, there is simply no basis for this claim.

C. Studies Submitted By The Respondents Purporting To Show That The Social Costs Of A Significant Remedy Outweigh Any Benefits Are Fundamentally Flawed

The economic studies submitted by the respondents should be disregarded by the President. First, they fail to take into account many of the fundamental goals of the President's steel plan or to consider the core benefits that Section 201 relief would provide. Second, the models contained in these studies suffer from numerous technical flaws, which seriously undermine their credibility.

V. THE PRESIDENT SHOULD NOT EXCLUDE DEVELOPING COUNTRIES FROM ANY RELIEF, AS THE EXCEPTION FOR DEVELOPING COUNTRIES IN ARTICLE 9 OF THE WTO SAFEGUARDS AGREEMENT DOES NOT APPLY

A. The President Should Consider The Relevant Developing Countries To Be Those Countries Designated As Beneficiary Countries For Purposes Of the Generalized System Of Preferences

The WTO does not maintain a definitive list of "developing countries" for the purposes of the Safeguards Agreement. Accordingly, the U.S. government has had to develop its own methodology to implement Article 9.1, which provides that safeguards can only be applied to developing countries responsible for less than 3 percent of the share of total imports if imports from all such countries amount to more than 9 percent of total imports. The President has traditionally applied Article 9.1 by identifying those importers who are designated as beneficiary countries for the purposes of the Generalized System of Preferences as set forth in HTSUS General Note 4(a). There is no basis for the President to depart from this practice in this investigation.

B. The President Should Use The Same "Like Or Directly Competitive Product" Definition For His Article 9.1 Analysis As Was Used By The Commission In Its Injury Determination

Certain respondents argue that in applying Article 9.1, the President should treat slabs, hot-rolled steel, and other flat products as separate products for purposes of calculating the percentage of import share held by developing countries. But a careful review of the Safeguards Agreement demonstrates that the term "product" in Article 9.1 should be read to be consistent with the use of that same term in Article 2.1, which sets out the conditions under which a WTO Member can apply a safeguard measure. Thus, the "product" used for analytical purposes of determining serious injury should be equivalent to the "product" used for analytical purposes of determining developing countries' import shares.

C. For Purposes Of His Article 9.1 Analysis, The President Should Consider Imports For 2000, The Most Recent Full Year During the Period of Investigation For Which Data Are Available

Different respondents, each of which is grasping for an advantage under Article 9.1, have proposed a wide range of potential time frames for the President to use in making his calculation. The President should reject these suggestions, and simply use data for 2000, which is the most recent full year during the period of investigation for which data are available.

D. Exclusion Of Developing Countries Would Substantially Undermine The Effectiveness Of Any Remedy Granted Under Section 203

The President should take into account the substantial negative effects that any exclusion for developing countries would have on any remedy granted for flat-rolled products. GSP beneficiary WTO Members with less than three percent import penetration collectively exported 2.2 million NT of steel to the United States in 2000. These same countries have almost 21 million NT of excess capacity. If excluded from the remedy, these countries could ship substantial amounts of flat-rolled products to the U.S. market, significantly undermining any remedy.

VI. THE PRESIDENT SHOULD NOT EXCLUDE ANY PRODUCTS FROM THIS CASE THAT CAN BE MADE BY THE DOMESTIC INDUSTRY

The domestic industry has already agreed to significant exclusions. The USTR excluded numerous products in his letter requesting the initiation of the Section 201 investigation. Domestic Producers have subsequently agreed to exclude a large number of additional products from this investigation. Domestic Producers expect that they will shortly identify still further product exclusion requests to which they will not object.

Exclusions must not be used to undermine Section 201 relief. It would plainly defeat the purpose of Section 201 relief to exclude a product from the remedy where such product is or can be produced by the domestic industry (or where the domestic industry produces an article which is competitive with or substitutable for that product). This standard for evaluating exclusion requests has been adopted by the President in recent Section 201 investigations.

INTRODUCTION

Bethlehem Steel Corporation, LTV Steel Company, National Steel Corporation, and United States Steel Corporation ("Domestic Producers") hereby submit their Rebuttal to Comments Regarding the Action the President Should Take Under Section 203(a) of the Trade Act of 1974. For the reasons given below, the President should impose the significant tariff relief on all flat-rolled products advocated by Domestic Producers.

I. THE PRESIDENT HAS A UNIQUE OPPORTUNITY TO SOLVE LONG-TERM PROBLEMS ASSOCIATED WITH THE STEEL INDUSTRY

The decision before the President in this Section 201 investigation is a momentous one. On the one hand, the domestic steel industry – in many ways the backbone and icon of the American industrial base – is in the midst of a crisis unparalleled in its history. At the same time, and due in large part to the leadership of the President, the present circumstances present a unique opportunity decisively to address the long-term problems associated with the international trade in steel.

Several factors have combined to make the present situation one of remarkable opportunity. First, the President has put forward a comprehensive steel program to address the import crisis, to spur steel-producing nations to eliminate inefficient and uneconomic capacity, and to ensure that trading rules are adequate to deter further government distortion of the markets. Second, the unanimous determination of the International Trade Commission (the "Commission") in the Section 201 investigation enables the President to take aggressive action to help stabilize the U.S. market, promote adjustment, and address the serious injury that has been suffered by the domestic industry. Finally, the industry itself has demonstrated an unprecedented commitment to go forward with aggressive adjustment measures, including necessary steps toward consolidation, restructuring and cost reduction. Together, these elements hold out the promise that the industry's problems can finally be addressed in a comprehensive and lasting way.

Meaningful Section 201 relief is absolutely essential to that effort. While respondents recognize many of the problems facing the industry – both domestically and globally – the proposals they have put forward, and the comments they have provided, completely fail to recognize the necessary role of substantial Section 201 relief to address each of those problems. While each of these issues is discussed in more detail below, it is important to appreciate at a broad and comprehensive level the importance of Section 201 relief in addressing the overall steel problem.

First, Section 201 relief is essential to save the domestic steel industry. Respondents do not and cannot dispute that the fundamental purpose of the Section 201 statute is to preserve the productive resources of domestic industries and to allow such industries to adjust to import competition. And yet, as shown below, the remedy proposals advocated by these respondents would provide no binding import restraints and no relief from the very cause of the injury to the industry.[1]

[1] See Section III of this submission.

Second, while respondents stress the need for industry restructuring,[2] they completely fail to recognize the necessity of Section 201 relief if there is to be real change, both in the U.S. market and abroad. Domestically, the "breathing space" and market stabilization provided by Section 201 relief will be essential to provide producers with the capital for investments and acquisitions, and to free up the resources needed to focus upon market-driven rationalization and restructuring. Internationally, foreign governments and producers will not seriously address the problem of unneeded and uneconomic capacity until the United States no longer serves as the dumping ground for global excess capacity.

Third, while respondents stress the need for vigorous competition in the market,[3] they wholly fail to acknowledge the central role of Section 201 relief – in conjunction with the rest of the President's steel plan – in restoring market forces to the industry worldwide and deterring unfair trade. The American steel industry is the most technolog-

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2 See, e.g., Comments regarding Remedy Determination Filed on Behalf of Eurofer (Jan. 4, 2002) ("Eurofer's Comments") at 13 (discussing the importance of restructuring) (Public Document); Comments regarding Remedy Determination with respect to Carbon and Alloy Flat-Rolled Steel Products Filed on Behalf of Japanese Respondents (Jan. 4, 2002) ("Japanese Respondents' Comments") at 26 (arguing that any trade protection must be conditioned on industry restructuring to resolve the long-standing problem of inefficient excess capacity) (Public Document).

3 See, e.g., Robert W. Crandall, "The Futility of Steel Trade Protection," (submitted on behalf of Eurofer on Jan. 4, 2002) ("Crandall Study") at 1-3 (stressing competition between integrated mills and mini-mills) (Public Documetn); Japanese Respondents' Comments at 10-11 (expressing concerns that consolidation among integrated mills could harm consumers by reducing competition) (Public Document).

ically advanced in the world. Imports have surged not because foreign producers are more efficient, but because of subsidies, protected home markets, and other trade distortion. Providing import relief in the U.S. market will not only preserve the viability and productive resources of the U.S. industry – thereby ensuring a reliable source of domestic supply and vigorous domestic competition over the long run – but will also encourage foreign governments to eliminate the market-distorting practices that have led to repeated import surges and unfair trade.

Finally, while respondents express concern regarding the effect of import restrictions on global trade relations,[4] they fail to recognize that a long-term solution to the structural problems facing the global industry will eliminate a significant trade irritant and dramatically enhance the prospects of trade-liberalizing initiatives. Indeed, the President's steel program was designed to enhance his commitment to free trade as an engine of growth by restoring market forces to world steel markets and eliminating the unfair practices that have led to persistent steel trade disputes.[5]

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4 See, e.g., Comments regarding Remedy Determination Filed on Behalf of Consuming Industries Trade Action Coalition (Jan. 4, 2002) ("CITAC Comments") at 1 (expressing concern that import restrictions would "spark a trade war") (Public Document).

5 See Statement by the President Regarding a Multilateral Initiative on Steel (June 5, 2001), available at http://www.whitehouse.gov/news/releases/2001/06/20010605-4.html ("President's Multilateral Initiative") (explaining that his steel program is "part of our free trade agenda . . ." and that it has a "goal of restoring market forces . . ." to the steel industry) (attached hereto as Exhibit 1).

In sum, respondents' comments consistently ignore the ability of relief under Section 201 to preserve a vigorously competitive U.S. steel industry as part of a global industry that operates under market forces, not government dictates.

II. RESPONDENTS' ATTEMPTS TO REARGUE ISSUES PROPERLY DECIDED BY THE INTERNATIONAL TRADE COMMISSION MUST BE REJECTED

Under Section 201, the President is charged with determining the appropriate relief to be granted the domestic industry in the event that the Commission makes an affirmative finding regarding serious injury, or the threat thereof, to that industry.[6] Nowhere does the statutory scheme indicate that the President is to use his determination of the appropriate remedy for the domestic industry to make an independent re-evaluation of the question of injury, a question that is plainly left to the Commission.[7]

The statute lists ten different factors that the President is to take into account in making his remedy determination.[8] None of these factors suggest that the President is to

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6 See 19 U.S.C. § 2253(a)(1)(A) ("After receiving a report under section 2252(f) of this title containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry, the President shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.").

7 See id. § 2252(b)(1)(A) (providing that the Commission shall "determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article").

8 These factors are: (1) the recommendation and report of the Commission; (2) the (continued...)

re-weigh the evidence submitted to the Commission during the injury phase of an investigation. Instead, the statute makes clear that questions associated with an injury determination, such as the proper definition of the like or directly competitive product, or the relative significance of other potential causes of injury, are to be determined by the Commission, based upon the extensive record developed and proceedings conducted by that agency. Instead of revisiting questions relating to injury, the President is charged with determining, based upon the recommendations of the Commission, the type of relief that would be needed to facilitate positive import adjustment, and to consider the possible effects such relief could have on other national interests. Respondents devote much of their comments to repeating claims and assertions that were rejected by the Commission

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8 (...continued)
extent to which workers and firms in the domestic industry are benefitting from adjustment efforts and are engaged in worker retraining efforts; (3) efforts being made by the domestic industry to make a positive adjustment to import competition; (4) the probable effectiveness of potential remedies to facilitate positive adjustment to import competition; (5) the short- and long-term economic and social costs of potential remedies relative to their short- and long-term economic and social benefits and other considerations relative to the position of the domestic industry in the United States economy; (6) other factors related to the national economic interest of the United States; (7) the extent to which there is diversion of foreign exports to the United States market by reason of foreign restraints; (8) the potential for the circumvention of any action taken; (9) the national security interests of the United States; and (10) the statutory factors that the Commission must take into account in making its remedy recommendation under 19 U.S.C. 2252(e)(5).

See id. § 2253(a)(2)(A) - (J).

during the injury phase, and that have no place in these proceedings. The President should summarily reject these arguments.

For example, certain respondents dispute the Commission's finding that slabs, hot-rolled steel, plate, cold-rolled steel, and corrosion-resistant steel all constitute a single like product – referred to by the Commission as "certain carbon flat-rolled steel."[9] The Commission, however, conducted an exhaustive investigation into the like product issue. This issue was fully briefed by all parties, and was addressed in detail in the hearings before the Commission. In fact, the Commission devoted 14 pages of its injury determination to the like product issue.[10] It reached the following conclusion:

> Certain carbon flat-rolled steel presents the unique circumstances of a convergence of a high level of overlap in markets and very high overlap in domestic production among the ranges of steel types that comprise this article. Where the markets are strongly interrelated across the spectrum of types of certain carbon flat-rolled steel and the imports of the same range of steel types affect a single common production base, we find it is appropriate to find a single industry producing that article in the context of this

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9 See Comments regarding Remedy Determination Filed on Behalf of AK Steel Corporation, California Steel Industries, Inc., Duferco Farrell Corporation, and Oregon Steel Mills, Inc. (Jan. 4, 2002) ("AK Steel Comments") at 3 (arguing that slab should be treated as a separate like product) (Nonconfidential Version); Comments regarding Remedy Determination Filed on Behalf of AG der Dillinger Hüttenwerke, GTS Industries S.A. and SSAB Oxelösund AB (Jan. 4, 2002) ("AG der Dillinger Hüttenwerke, et al. Comments") at 5 (arguing that plate should be treated as a separate like product) (Public Document).

10 Steel, Inv. No. TA-201-73, USITC Pub. 3479 (Dec. 2001) ("Determination") at 36-49.

> section 201 investigation. We thus find that certain carbon flat-rolled steel is like the corresponding imported certain carbon flat-rolled steel.[11]

Thus, not only is there no legal basis to suggest that this issue be revisited, it is clear that it was fully and correctly addressed by the Commission.

Similarly, a number of respondents complain that the statutory factor of "increased imports" was not met.[12] The Commission, however, fully considered this issue and found that this statutory criterion was satisfied: "While the volume of imports declined in 1999 and 2000 from this {1998} peak, the absolute volume and ratio of imports to U.S. production were still significantly higher in 1999 and 2000 than at the beginning of the period."[13] Accordingly, the Commission held that "the statutory criterion of increased imports is met."[14]

Other respondents try to reargue the question of whether problems in the domestic industry reflect competition between mini-mills and the integrated producers, rather than imports.[15] Once again, the Commission specifically rejected this argument:

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11 Id. at 45.

12 See, e.g., Eurofer's Comments at 5 (Public Document); Japanese Respondents' Comments at 3 (Public Document).

13 Determination at 50.

14 Id. at 49.

15 See generally Crandall Study (Public Document); see also Japanese Respondents' Comments at 3 (referring to "low-cost minimill capacity" as a source of the injury suffered by the domestic industry) (Public Document).

> Minimills did typically enjoy cost advantages over integrated producers, based in part on differing product mixes and raw material costs. However, these cost advantages existed throughout the {Period of Investigation ("POI")} , and integrated producers as well as minimills enjoyed declining costs throughout the POI. . . . {W}hile in general, minimills may have been in a somewhat better position to withstand low-priced import competition than other domestic producers, we find that minimills were not primarily responsible for the declines in domestic prices or an important cause of serious injury to the domestic industry, which is equal to or greater than the injury caused by increased imports.[16]

Finally, a number of respondents suggest that the industry's problems result principally from legacy costs.[17] The Commission's opinion makes plain, however, that such costs were not responsible for the serious injury suffered by this industry:

> The issue of legacy costs is not a new one to this industry. The difficulties in meeting these obligations were recognized before the POI, and the domestic industry was able to earn a reasonable rate of return in 1996 and 1997 despite these costs. Respondents have offered no reason why the industry's longstanding problem would cause no injury in 1996 or 1997 but then begin to depress prices and strangle revenue in 1998-2000. Legacy costs may have left certain members of the domestic industry less able to compete with low-priced imports, but are not responsible for the low prices that have injured the industry.[18]

As these examples make plain, the Commission's exhaustive opinion with respect to injury fully addressed and rejected the numerous claims that respondents improperly attempt to reargue here. Indeed, the unanimous findings of the bipartisan Commission

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16 Determination at 65.

17 See, e.g., Japanese Respondents' Comments at II ("Crushing legacy and retiree health costs have prevented consolidation.") (Public Document); CITAC Comments at 22 ("Legacy costs are the chief reason that integrated steel companies are faced with bankruptcy in the current depressed market.") (Public Document).

18 Determination at 64.

demonstrate that the domestic industry has suffered serious injury as a result of imports and that substantial relief is required to allow the industry to recover and adjust. As the Commission explained:

> In sum, the causal link between increased imports and the injury to the domestic industry is clear. In 1997, at an operating margin of 6.1 percent, the industry was performing modestly well and thus was well poised to increase its profitability in 1998 as demand strengthened. However, the surge in imports in 1998, at prices below domestic prices, led to a decline in the industry's financial and other indicators. The industry then cut prices to hold on to market share but the price cuts prevented the industry from restoring profitability. The industry's operating margins declined steadily from 6.1 percent in 1997 to 4.0 percent in 1998 to negative 0.7 percent in 1999 and to negative 1.4 percent in 2000. Finally, in interim 2001, although import levels declined somewhat, prices remained low. The domestic industry entered a period of falling demand already in a weakened condition and deteriorated even further to an operating margin of negative 11.5 percent.[19]

Given this record, the Commission agreed unanimously that "increased imports are a substantial cause, and a cause no less important than any other cause, of serious injury to the domestic certain carbon flat-rolled steel industry."[20] As such, there is no reason or basis under the law for the President to revisit the injury findings made by the Commission.

III. THE PRESIDENT SHOULD REJECT THE ALTERNATIVE REMEDIES SUGGESTED BY RESPONDENTS

A variety of alternatives to the remedy proposal made by Domestic Producers have been put forward by parties, all of which would have little or no real impact on

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19 Id. at 63.

20 Id. at 65.

imports into the United States. These proposals for weaker remedies will not provide meaningful relief to the domestic industry and will not help effectuate the President's Steel Plan. Specific weaknesses of these proposals are described in detail below.

A. Negotiations to Reduce Foreign Excess Capacity Are Not A Viable Alternative To Section 201 Relief

There is no question amongst the parties in this investigation that there is a pressing need to reduce worldwide overcapacity. There exist, however, widely disparate views on how to achieve meaningful reductions. Many of the parties focus primarily on the permanent reduction of domestic U.S. capacity and make little to no recommendations regarding overcapacity overseas.[21] However, with 247 million tons of excess crude steel capacity worldwide,[22] the crisis facing the global steel industry will not be effectively addressed absent foreign capacity reduction. While the OECD meetings held in December 2001 have helped develop a recognition of the scope of this problem, foreign steelmakers will not voluntarily reduce capacity. Only effective and comprehensive import relief in the U.S. market which will deny foreign producers an opportunity to unload their excess production in this market can create the necessary incentive for true global capacity reduction.

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21 See generally Crandall Study (Public Document).

22 See Comments regarding Remedy Determination Filed on Behalf of Bethlehem Steel Corporation, LTV Steel Company, Inc., National Steel Corporation, and United States Steel LLC (Jan. 4, 2002) ("Domestic Producers' Comments") at 38 (Nonconfidential Version).

B. Section 201 Relief Will Provide Substantial Relief To The Domestic Industry

Domestic Producers have presented data and economic analysis showing that a substantial tariff for four years is the most effective remedy for the flat-rolled steel industry.[23] Specifically, in the most recent submission based on estimated 2001 base year values, Domestic Producers estimated that a 40 percent tariff on all flat-rolled products (subject to a minimum $100 per ton duty for slabs, not to exceed 50 percent ad valorem) would increase industry revenues by $2.8 billion and operating income by $1.4 billion.[24] Prices for finished domestic flat-rolled products would increase by 6.8 percent and domestic slab prices would increase by 8.9 percent. Further, over $500 million annually would be available in tariff revenue to distribute to the domestic industry to promote consolidation.[25]

Many of the parties opposed to any Section 201 remedy, by contrast, state that there is no remedy that can benefit the domestic flat-rolled industry. The Japanese Respondents assert that even the maximum 50 percent tariff would increase domestic

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23 See Domestic Producers' Prehearing Remedy Brief (Oct. 30, 2001) ("Domestic Producers' Prehearing Remedy Br.") at Exhibit A (Public Version); Domestic Producers' Comments at Section I and Exhibit 1 (Nonconfidential Version).

24 Domestic Producers' Comments at Exhibit 1 (Nonconfidential Version). At higher demand levels, such as those in 2000, these effects would increase. See the estimates based on 2000 base year values in Domestic Producers' Prehearing Remedy Br. at Exhibit A (Public Version).

25 Id.

prices by 1 to 2 percent at most, providing no benefit to the domestic industry.[26] The Consuming Industries Trade Action Coalition ("CITAC") argues that tariffs would have even smaller beneficial effects on the domestic industry.[27] Robert Crandall, in a submission on behalf of Eurofer, states that no tariff will help the integrated producers.[28] Eurofer states that "{i}mport restrictions will provide no significant benefit to U.S. producers and will accomplish nothing with respect to the industry's fundamental problems."[29]

A critique of the methodology behind many of these arguments is presented below and will not be discussed here.[30] The common underlying assumption behind all of these arguments is that import relief will not help the domestic industry because imports have not harmed the domestic industry. The Commission unanimously disagreed

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26 Japanese Respondents' Comments at 23-24 (Public Document).

27 See CITAC Comments at "Estimated Economic Effects" at Table 2 (Public Document).

28 Crandall Study at 1 (Executive Summary) (Public Document).

29 Eurofer's Comments at 2 (Public Document).

30 See Section IV below. The exaggerated nature of these results can easily be seen, however, by comparing them to the results obtained by the Commission's economic modeling. CITAC estimates that a 20.7 percent tariff will have a net welfare cost to the economy of $1.4 billion. See CITAC's Comments at "Estimated Economic Effects" at Table 2 (Public Document). A comparison of the Commission's estimates of the net benefits and costs of a 20 percent tariff, found in EC-Y-050 (Dec. 5, 2001) at Table 2-Multi-market, with the CITAC net welfare cost estimate shows that the CITAC estimate exceeds the worst case estimate by the Commission by a substantial factor. The CITAC model results are just not credible.

with that assumption when it determined that imports were a substantial cause of serious injury to domestic flat-rolled producers.

Recent developments in flat-rolled steel markets provide further convincing evidence that imports have seriously injured the domestic industry and that substantial tariffs on those imports will contribute significantly to the industry's recovery. Pending Section 201 import restrictions have dramatically reduced import offers and have provided a foundation for price increases in flat-rolled sheet markets at the beginning of this year. As reported in the Wall Street Journal last Thursday:

> Now that the looming threat of severe trade tariffs and quotas has scared many U.S. steel importers, American mills are raising prices domestically on key products used in automobiles, appliances, heavy machinery, construction and other prominent goods.[31]

The article goes on to state that the price increases are not due to any increase in demand, but to reduced import supply: "Although raw demand isn't picking up, the U.S. market share of domestic producers is rising, due to the trade issue."[32]

What is happening in the market now is that domestic purchasers are shifting demand from imports to domestic producers, thereby increasing demand for domestic production even though overall demand has not improved yet. At the same time domestic production has been curtailed from levels that existed a year ago through cutbacks, plant closures, and temporary idling of facilities and shift reductions in response to depressed

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31 Robert Guy Matthews, "U.S. Steel Mills Lift Key Domestic Prices," Wall Street Journal (Jan. 10, 2002) at A2 (attached hereto Exhibit 2).

32 Id. (emphasis added).

market conditions. Clearly, demand for imports has decreased as importers and purchasers have refrained from committing to import orders pending the President's decision with regard to trade relief.

Price increases occurring in the market now are directly dependent on the expected imposition of Section 201 trade remedies. If the parties opposing relief were correct in their economic analysis, these price increases would not be occurring because imports do not affect domestic prices. The market has proven them wrong. At the same time, it is also clear that if Section 201 relief is not imposed the price increases will be jeopardized as imports will once again be free to drive down prices in the U.S. market.

Prices on flat-rolled spot sales are reportedly up about 7 to 10 percent since December according to a number of steel analysts.[33] The Office of the United States Trade Representative ("USTR") has asked Domestic Producers whether these current price increases, even before any actual relief is imposed, indicate that price increases will be even greater if actual relief is imposed.[34] First of all, as discussed above, the current

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33 World Steel Dynamics, "Dramatic Recovery in USA Steel Sheet Market," Angles (Jan. 4, 2002) at 1 (attached hereto Exhibit 3): "Overall, the spot price of hot-rolled band for delivery in January 2002 may now be in the $225-230 per net ton range, versus only $200-210 per ton in early December 2001." See also Morgan Stanley, "Correction: Tighter Supply Boosts Steel Prices," Steel (Jan. 8, 2002) at 2 (attached hereto Exhibit 4): "The culmination of the shut down of LTV's integrated capacity and the anticipated Section 201 restriction on steel imports resulting from tariffs have fueled a stronger than expected rally in flat rolled steel prices."

34 The specific question from USTR follows: "Some purchasers of flat-rolled steel predict that imposition of the relief recommended by the ITC is likely to increase (continued...)

price increases are based in significant part on the market's expectation that relief will be imposed after the end of February. Current import orders for delivery after that date have been sharply curtailed pending a decision in this case.[35] Domestic supply is also at reduced levels through mill closures (e.g., LTV) and temporary production cut-backs (reduced production turns, idled blast furnaces, etc.) at steel plants instituted in response to poor market conditions.[36] The result has been modest price increases for spot sales. Most contract sales (as much as 50 to 70 percent of sales for some companies), however, will be at lower prices in 2002 than last year and are not increasing now because of the fixed price nature of contracts. Thus the average price increase in the market for flat-

34 (...continued)
prices by more than 10 percent, since domestic producers have already announced price increases greater than that amount and plan more increases if a remedy is imposed. Is this correct? Please provide data on the success of recently announced price increases, and any plans for further increases if relief is imposed. If the mere possibility of relief can support such increases, should we expect that actual relief will result in still greater price increases?" E-mail from Willis Martyn, Office of USTR, to Kevin Dempsey, Dewey Ballantine LLP, and James Hecht, Skadden, Arps, Slate, Meagher & Flom LLP regarding requests for additional information (Jan. 9, 2002 12:55 PM) (on file with recipients) ("USTR Request for Additional Information").

35 There are still foreign producers who are offering imports for delivery after February, assuming that tariffs do not exceed 20 to 24 percent. See Affidavit of [ ] (Jan. 14, 2002) (attached hereto as Exhibit 5); see also Affidavit of [ ] (Jan. 14, 2002) (attached hereto as Exhibit 6).

36 For example, United States Steel did not relight two blast furnaces after repairs were completed in September and November of 2001 due to poor business conditions. At the end of December, improving conditions led to the relighting of the furnace at Gary. Plans are currently underway to relight the Number 3 furnace at Mon Valley which will bring additional domestic capacity online.

rolled products has been much less than 7 to 10 percent.[37] Thus, recent market events are fully consistent with the detailed economic analysis that Domestic Producers have provided indicating that average flat-rolled prices will increase from 6.8 percent to 8.9 percent as a result of imposition of a 40 percent tariff on all countries except Canada.[38] Spot prices, as they generally do in a market recovery, will increase first and by a larger amount, just as they will decline first and by a greater amount in a market downturn. Any price increases, however, plainly depend upon the imposition of effective Section 201 relief.

USTR has also requested that Domestic Producers respond to the following question: "Much of the analysis of the likely effects of integrated producers' proposed remedy is based on 2001 or 2000, when demand was depressed. How should we factor the expected upturn in the economy into our analysis?"[39] The effects of the proposed remedy, assuming there is a significant increase in steel consumption, can be assessed by looking at the results using 2000 base year values. While steel demand was depressed in 2001, steel consumption in 2000 was at record levels. Steel consumption did begin to

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37 It should be noted that all of the "price" changes referred to in the economic models presented by Domestic Producers, the Commission, and parties opposed to relief are referring to average prices for a particular product (total sales value divided by total sales quantity) and not spot market prices. Thus if total sales are split evenly between spot and contract sales, and spot sales increase by 12 percent but contract sales decline by 2 percent, the average price for all sales will increase by 5 percent.

38 See Domestic Producers' Comments at Exh. 1 (Public Document); Domestic Producers' Prehearing Remedy Br. at Exh. A (Public Version).

39 USTR Request for Additional Information.

slow in late 2000, but the annual apparent consumption level in 2000 was comparable to 1998.[40] Most analysts are predicting that steel consumption will not return to 2000 levels until at least 2003 or 2004. Thus the estimates put forward by Domestic Producers for 2000 and 2001 base year values should bracket the expected likely demand possibilities for the next three to four years.

Demand for steel in the United States will continue to be depressed even with the onset of a general economic recovery. According to CRU forecasts, consumption of steel in the United States will continue to decline throughout the first half of 2002. Thus even if recovery begins in the second half of 2002, it will begin at such low levels of demand that consumption of flat steel products will remain below 2000 levels through 2003.[41] The Japanese Respondents quote these CRU statistics and point to a 15 to 25 percent demand increase as the basis for their anti-surge quota proposal.[42] The statistics do not bear out such an increase. Year over year growth of steel consumption as forecasted by CRU is 4.3 percent in 2002 and 9.8 percent in 2003. Even when compounded, forecasted

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40 See CRU International, Steel Sheet Quarterly Industry and Market Outlook at NAM-6 (attached hereto as Exhibit 7).

41 According to CRU, consumption of traded steel sheet products in the United States in 2000 was 65.0 million short tons and is forecast to be 57.9 million short tons in 2002 and 63.5 million short tons in 2003. See id.

42 Japanese Respondents' Comments at 12 (Public Document).

steel demand growth between 2001 and 2003 does not reach 15 percent, and if 2000 is used as the base year, compounded growth is a negative 2.2 percent through 2003.[43]

Furthermore, it is important to note that all of these estimates for growth in demand are based on forecasts. In the case of the Japanese Respondents' 15 to 25 percent demand increases, they are using forecasted numbers for both the base and end periods, as there is not yet actual consumption data for any full year after 2000. Data on actual consumption available to date continue to show a decline in steel demand.[44] It is difficult to predict the extent that such a decline will reach as well as the timing of the end of the decline and beginning of a recovery. In its April 2001 publication, CRU forecasted that steel sheet product consumption would reach 65.2 million short tons in 2002, and that demand would begin to recover in the third quarter of 2001.[45] In its most recent forecasts dated October 2001, CRU had revised this number downward by 11.2 percent to 57.9 million short tons and pushed back the beginning of the recovery in demand to the third quarter of 2002.[46]

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43 CRU International Ltd., Steel Sheet Quarterly Industry and Market Outlook at NAM-6 (Exhibit 7).

44 AISI and US Department of Commerce Import and Export Census Data show a 15.5% percent decline in apparent consumption of cold rolled carbon steel flat products Jan-Oct 2001 vs. Jan-Oct 2000 and a 17.1 percent decline in apparent consumption of hot rolled carbon steel flat products over the same period.

45 CRU International Ltd., Steel Sheet Quarterly Industry and Market Outlook (Apr. 2001) at NA-3 (attached hereto as Exhibit 8).

46 CRU International Ltd., Steel Sheet Quarterly Industry and Market Outlook at NAM-6 (Exhibit 7).

Steel demand continues at levels below those experienced in 2000 and 2001 and even when demand for steel begins to recover, it will be a matter of years before it recovers to 2000 levels.

C. Alternative Remedy Proposals Should Be Rejected As Inadequate

1. Respondents Have Articulated Incorrect Legal Standards

Some parties have suggested legal principles to guide the President as he formulates a remedy. This is worth noting only because the principles articulated are incorrect as a matter of law.

First, Eurofer argues that tariffs cannot be imposed in a manner which will reduce imports below their historical levels.[47] No such prohibition exists. The reference is apparently to Article 5.1 of the Agreement on Safeguards, which limits quantitative restrictions in the manner suggested, but clearly does not apply to tariff measures.[48]

Second, Eurofer argues that, in order to comply with the requirement that relief can be granted only in the amount necessary to remedy the serious injury caused by imports, the remedy should benefit only the lowest performing companies.[49] Eurofer concludes that as the flat-rolled steel industry is not uniformly depressed, the only appropriate remedy is non-import relief. This theory suffers from the fact that the

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47 Letter from International Advisory Services Group on behalf of Eurofer (Jan. 4, 2002) at 12.

48 WTO Panel Report, United States – Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea, WT/DS202/R (Oct. 29, 2001) at 7.69.

49 Id. at 13.

standard articulated is without basis in law or WTO rules. No authority for this contention is cited, and indeed, no authority supports this contention. While the Agreement on Safeguards does impose the requirement in Article 5.1 that the scope of the remedy be limited to the extent necessary to prevent or remedy serious injury and facilitate adjustment, this requirement does not mean that the remedy fashioned must affect each member of the domestic industry in precisely the same way, or that no member of the domestic industry may enjoy a greater benefit than others from the relief. There is no legal bar to the granting of import relief in this instance.

Third, Silgan Containers claims that Section 201 "is fundamentally concerned with import volume" and thus concludes that "the statute itself would seem to favor quota remedies . . . ."[50] Again, no authority is cited in support of this proposition, and no authority can be cited. The Commission itself decisively answered this claim in its opinion:

> {a} number of parties have argued that we should recommend that the President impose quantitative restrictions on the imports subject to affirmative findings in this proceeding either in addition to or in lieu of tariffs. For these industries, we believe that additional duties are generally more appropriate than quotas to address the serious injury or threat of serious injury. First, simple tariff increases in general are less discriminating between foreign sources of supply, have greater flexibility in the event of shifts in demand, and are easier to administer than quantitative restrictions. Second, tariffs are more likely than quotas to provide some price and revenue relief to the industries in question in the short term, a factor that is particularly important in this investigation, given the price declines experienced by all of these industries. Tariffs are thus more consistent

50 Comments regarding Remedy Determination Filed on Behalf of Silgan Containers (Jan. 4, 2002) ("Silgan Containers' Comments") at 8 (Public Document).

> with our mandate under the statute that requires us to recommend action that will "address the serious injury." Finally, the difficulty in predicting likely future demand for the various subject steel products makes a tariff remedy a more attractive option in this case. The recent significant change in demand conditions for many of the products, as a result of factors such as the overall downturn in the U.S. economy, has made setting an appropriate quota level particularly difficult. Should future demand increase, or decrease, there is a danger that a given quota level will provide either too much or not enough relief. By contrast, the impact of additional tariffs is less affected by changes in demand conditions. Given the foregoing, we believe that for these industries, tariffs are the most appropriate tool to provide the amount of relief necessary to remedy the serious injury or threat of serious injury.[51]

Fourth, certain respondents have argued that the President must treat the Commission's vote on tin mill products as a negative determination – notwithstanding the fact that three Commissioners cast affirmative votes covering such products[52] – on the grounds that three of the four Commissioners who treated tin mill as a separate like product voted in the negative.[53] This argument has no basis in the law and in fact is

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51 Determination at 354.

52 Commissioners Bragg and Devaney made an affirmative determination based upon a finding that all flat products, including tin mill products, constituted a single like or directly competitive product under the statute. See Separate Views on Injury of Commissioner Lynn M. Bragg, contained within Determination at 273 ("I find one like product comprised of all carbon and alloy flat products subject to this investigation . . . "); Determination at 36 n.65 (Public Version) (noting that Commissioner Devaney "finds a single like product consisting of all flat products"). Commissioner Miller, who also made an affirmative determination, treated tin mill products as a separate like product. See Separate and Dissenting Views of Commissioner Marcia E. Miller on Injury with Respect to Tin Mill Products, contained within Determination at 307-310.

53 See, e.g., Comments regarding Remedy Determination Filed on Behalf of the Can Manufacturers' Coalition (Jan. 4, 2002) ("CMC's Comments") at 3-15 (stating that "the President should find the negative injury determinations of Commissioners

(continued...)

directly contradicted by the Commission's own determination. Indeed, the Commission specifically stated that it was equally divided with regard to tin mill products, such that the three affirmative votes covering such products (from Commissioners Bragg, Devaney and Miller) could be treated by the President as the determination of the Commission:

> The Commission was equally divided in its determination with regard to (1) carbon and alloy steel tin mill products, (2) tool steel, (3) stainless steel wire, and (4) stainless steel fittings. Pursuant to section 330(d)(1) of the Tariff Act of 1930 {19 U.S.C. § 1330(d)(1)}, where the Commission is equally divided, the determination of either group of Commissioners may be considered by the President to be the determination of the Commission.[54]

This unambiguous statement by the agency charged under the law with interpreting and applying the Section 201 statute demonstrates that the Commission's vote on tin mill products may properly be treated by the President as an affirmative determination.[55]

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53 (...continued)
Koplan, Okun, and Hillman to be the determination of the Commission") (Public Document); Silgan Containers' Comments at 5-7 ("properly understood, the ITC in fact rendered a negative determination for tin mill steel products") (Public Document).

54 Determination at 1 n.1 (emphasis added).

55 Contrary to the suggestion of certain respondents, see, e.g., CMC Comments at 8-9 (Public Document), neither U.S. law nor the WTO Safeguards Agreement requires that each Commissioner employ an identical definition of the like or directly competitive product in order to support an affirmative determination under Section 201. Rather, as shown in the Commission's own determination, an affirmative finding may be supported upon the affirmative votes of a sufficient number of Commissioners covering the relevant product, notwithstanding the fact that certain Commissioners may have employed differing definitions of the like or directly competitive product. This practice is not only fully consistent with the law, but also with the Commission's own past practice. See Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil,
(continued...)

2. Respondents' Alternative Remedy Proposals Should Be Rejected

Domestic Producers have proposed a forty percent tariff for flat-rolled products, with a minimum tariff of $100 per ton on slabs.[56] Domestic Producers have demonstrated that this remedy alone will generate sufficient income to implement their adjustment plans,[57] with a minimal cost to steel consumers and minimal market disruption.

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55 (...continued)
Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, USITC Pub. 2664, Inv. Nos. 701-TA-319-332, 334, 336-342, 344, and 347-353 (Final) and Inv. Nos. 731-TA-573-579, 581-592, 594-597, 599-609, and 612-619 (Final) (Aug. 1993) at I-3 n.1 (where five Commissioners found two separate like products, clad plate and corrosion-resistant products other than clad plate, and another Commissioner found a single like product, that Commissioner's negative determination with respect to one like product was treated as a negative determination with respect to both like products found by the Commission majority).

Similarly, the fact that Commissioner Miller, unlike Commissioners Bragg and Devaney, included Canada in her analysis raises no legitimate concern under WTO rules. See CMC Comments at 8-9 (Public Document). Indeed, Commissioner Miller, noting that imports from other sources actually increased more rapidly than imports from Canada, specifically stated: "I would have found imports of tin mill products to be a substantial cause of serious injury had I excluded imports from Canada." Separate and Dissenting Views of Commissioner Marcia E. Miller on Injury with Respect to Tin Mill Products, contained within Determination at 310 n.29. These findings are more than adequate to address any concerns regarding "parallelism" under the WTO rules.

56 Subject to the statutory limitation of 50 percent ad valorem. Domestic Producers' Comments at 3-5 (Nonconfidential Version).

57 Before the Commission, Domestic Producers demonstrated that over the next three years, the domestic industry would need to make an additional $7 billion to $9 billion in investments to maintain its competitiveness. The USTR has, via e-mail, asked whether, in determining the levels of investment made by the domestic industry prior to the surge of imports that began 1998, the Domestic Producers (continued...)

Not surprisingly, foreign producers' remedy recommendations are markedly different. These parties argue for no remedy, or a non-import remedy such as trade adjustment assistance, or for a quantitative restriction with a non-binding quota and a minimal (if any) over quota tariff rate.

The first two suggestions – no remedy or a non-import remedy – must be rejected out of hand. The Commission has unanimously found that the domestic industry has been seriously injured by imported flat-rolled steel products.[58] Without an adequate Section 201 remedy, this industry will not successfully adjust to import competition. In addition, without a sufficient remedy, one of the key underlying goals of the President's steel program – closure of global excess capacity – will not be met.

(...continued)

have included amounts invested in mini-mill flat product production facilities. See USTR Request for Additional Information ("In their briefs before the ITC, integrated steel producers argued that over the next three years, the industry needs $7-9 million to fund capital investments at pre-surge levels and to make up for investments cancelled in 2000 and 2001. Does the calculation of pre-surge investment levels include amounts invested in minimill flat product production facilities?"). It should be made clear that Domestic Producers did not rely upon estimates of the amount of capital expenditures made prior to 1998; those figures were collected by the Commission, and are part of the record in this case. The Domestic Producers did use an expert on the steel industry to estimate the future levels of investment needed in the industry, and that expert considered the needs of the mini-mills in putting together his report. See R.J. Fruehan, Report Concerning Investments Required by the Flat Rolled Steel Industry to Remain Competitive, contained within Domestic Producers' Prehearing Remedy Br. ("Fruehan Report") at Exh. 2, p. 7 (discussing potential new investments by mini-mills) (Public Version).

58 Determination at 50.

In any event, the reasoning behind these proposed non-remedies is suspect. For example, with regard to tin mill imports, the CMC suggests that the only necessary trade remedy is the provision of Trade Adjustment Assistance ("TAA").[59] While displaced workers should certainly receive TAA, as previously demonstrated, TAA is not in and of itself a sufficient remedy for any flat product.[60] As stated by one of respondents' counsel, TAA relief "is diddly."[61]

Equally unlikely are the claims made by the Association for Home Appliance Manufacturers ("AHAM"). AHAM argues that it will not be able to pass on steel price increases to consumers of major home appliances and portable home appliances, and claims this is a reason to impose no remedy. This claim is somewhat incredible when the estimated effect of tariffs -- even very high tariffs -- is considered. In Domestic Producers' January 4 Comments, evidence was provided indicating that the price of the average new refrigerator would rise by only $3 if Domestic Producers' remedy proposal of a 40 percent tariff was implemented.[62] It is simply not credible to suggest that such modest

59 CMC's Comments at 21-22 (Public Document)

60 Domestic Producers' Comments at 34-35 (Nonconfidential Version).

61 Transcript of U.S. International Trade Commission Hearing regarding Remedy with Respect to Carbon and Alloy Flat Products (Nov. 6, 2001) ("Remedy Tr.") at 423 (Testimony of Mr. Cunningham).

62 Domestic Producers' Comments at Exh. 6 (Nonconfidential Version).

costs – less than the cost of a pound of butter to put in that new refrigerator – could not be absorbed by domestic consumers or the steel consumer itself.[63]

The suggested quotas, and the proffered rationale for them, must likewise be rejected. One party argues that the "goal of a tariff is to further reduce the quantity of imports," and that this goal is best met by a quota.[64] As recognized by the Commission, however, a tariff is often imposed because of its price effects,[65] and as previously

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63 Similarly, the estimated cost added to a new car would be less than $60. At a time when car manufacturers are offering zero percent financing and thousands of dollars in cash incentives, it is not credible to suggest that neither the automobile manufacturer nor the consumer could absorb such a modest price increase - the equivalent of a few tanks of gas.

64 Comments regarding Remedy Determination Filed on Behalf of the Pohang Iron and Steel Co., Ltd. and Korean Iron and Steel Industry Association with respect to Hot-Rolled Steel ("POSCO and KOSA Comments") (Jan. 4, 2002) at 8 (Public Document).

65 Determination at 354.

Brazilian Producers claim that tariffs will not meaningfully affect domestic prices, but will instead only shut out higher-priced imports, while lower-priced imports will continue to enter the U.S. market, thereby exacerbating the industry's injury. Comments regarding Remedy Determination Filed on Behalf of Brazilian Respondents (Jan. 4, 2002) ("Brazilian Respondents' Comments") at iv (Public Document). As an initial matter, there is nothing wrong with affecting the prices of higher-value products; these prices have been depressed because of imports just as lower-value products' prices have been depressed. Moreover, no products will be shut out with a tariff, and foreign producers are more likely to absorb the tariffs for higher value products than for lower value products. In any event, Domestic Producers have demonstrated that their proposed tariff remedy will meaningfully affect domestic prices and help them to adjust to import competition. See Domestic Producers' Comments at 3-7 and Table 1 (Nonconfidential Version).

demonstrated by Domestic Producers, tariffs are preferable to quotas for numerous reasons,[66] including:

- Tariffs are less distortive of trade because they rely on price signals and not the allocation of quantities by government regulators to foreign producers.

- Tariffs are less costly to the economy because the United States captures the tariff revenue. Notably, AK Steel et al. concede that quotas will transfer quota rents to foreign slab suppliers, and thus undermine the purpose of steel import relief.[67]

- Tariffs are transparent whereas quotas are not.

- Tariffs are uniform, while quotas would have to be micromanaged to achieve the same degree of uniformity, equity, and economic neutrality that tariffs accomplish automatically.

- Tariffs guarantee the U.S. industry relief from imports, whereas quotas may be set at levels, such as those proposed by respondents, that are not effective under current market conditions (and would be unlikely to be effective even in the face of a substantial economic recovery).

- Tariffs are effective regardless of import volumes, while the effectiveness of a quota varies greatly with the level of demand.

- Tariffs are easy to administer, whereas quotas are complex.

The potential complexity of quotas is perhaps best demonstrated by reviewing the proposals made by foreign producers themselves.

If any remedy is imposed, Japanese Producers urge the President to impose non-binding quotas for at most two or three years, given the projected strong demand recovery

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66 Domestic Producers' Comments at 7-16 (Nonconfidential Version).

67 AK Steel Comments at 12 (Nonconfidential Version).

estimated by these producers.[68] The problem with this projection, however, is that it is not supported by the source they cite. The source the Japanese Respondents rely on does not project steel consumption to return to 2000 levels until at least 2003 and does not indicate 15 to 25 percent increases in demand.[69] As recognized by the Commission, a quota is only as good as the demand predictions on which it is predicated, and it is very difficult to accurately forecast demand in the current market.[70]

Just as complex is the question of quota allocation as required by the Agreement on Safeguards. Korean Producers, for example, argue that antidumping and countervailing duty orders are a "special factor" that justifies deviating from the historical market share formula mandated by the Agreement on Safeguards,[71] a position that is not included in the recommendation of numerous other parties. Moreover, there is no agreement among respondents as to the appropriate time period in which "historical shares" should be determined. Japanese Producers want quotas allocated based on the historical period 1998-2000.[72] Such a methodology would be rejected by Ukrainian Producers, who claim

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68 Japanese Respondents' Comments at 12 (Public Document).

69 See Section III.B.

70 Determination at 354.

71 See, e.g., POSCO and KOSA Comments at 10 (Public Document).

72 Japanese Respondents' Comments at Exh. 1 (Public Document).

the appropriate representative period to consider for any quota allocation on slabs is the first two quarters of 2000.[73]

South African producers seek a special deal. In exchange for lifting all unfair trade orders against South African steel products, these producers would consent to a quota allocation of one percent of U.S. consumption of primary steel products.[74] There is, of course, no basis under the law for this proposal, which would be completely inappropriate given the fundamentally different remedial purposes of Section 201 and Title VII orders.[75] This offer therefore must be rejected.[76]

Finally, BHP suggests imposing a short "transition period" between the time that any relief is announced (i.e., March 6) and the time such relief is actually imposed, so as to permit products in transit the opportunity to enter tariff free/outside of any quota imposed.[77] This proposal should be rejected. All shippers have been on notice since December 7, 2001, of the possibility that a Section 201 remedy would be imposed. No

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73 Comments regarding Remedy Determination Filed on Behalf of Ukrainian Producers (Jan. 4, 2002) at 7 (Public Document).

74 Comments regarding Remedy Determination Filed on Behalf of the South African Iron & Steel Institute (Jan. 4, 2002) ("SAISI Comments") at 6 (Public Document). For slabs, SAISI suggests a quota of 4.3 percent. Id. at 7.

75 See Section III.E.

76 This party further argues that it is a beneficiary of the African Growth & Opportunity Act and is thus entitled to special treatment. SAISI Comments at 12-13 (Public Document). That statute, however, provides for no special Safeguards exclusions.

77 Comments regarding Remedy Determination Filed on Behalf of BHP (Jan. 4, 2002) at 2 (Public Document).

shipper will be caught by surprise by such relief. Delaying relief will simply further the domestic industry's injury, as foreign producers scramble to ship every last ton possible to the United States prior to imposition of relief.

D. The Same Remedy Should Be Applied to Slabs As Is Applied to Other Flat Products

1. Domestic Slab Producers Need Significant Tariff Relief

Domestic Producers have previously demonstrated why all flat-rolled products should be subject to the same tariff based remedy.[78] Slab and the other flat-rolled products are fundamentally interrelated, both in terms of product-processes and markets. As the Commission noted in its determination that there is a single like or directly competitive product constituting flat-rolled steel:

> The interrelationship between the production processes and integration of the producers demonstrates that the market for each type of certain carbon flat-rolled steel is not isolated, but directly affected by the markets across the spectrum of types of certain carbon flat-rolled steel.[79]

If effective relief on slab is not provided, the cost advantages afforded by low-priced imported slab will cause more and more domestic producers to close their slabmaking facilities (i.e., their "hot-end") in whole or in part, and fall in line with those companies who have chosen, in effect, to cease making steel in the United States.[80] This

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78 Domestic Producers' Comments at 16-22 (Nonconfidential Version).

79 Determination at 42.

80 AK Steel claims that it is not in need of Section 201 Relief because it claims to have "already adjusted to import competition." AK Steel Comments at 8 (Nonconfidential Version). AK Steel and other slab rollers did not adjust to
(continued...)

loss will devastate the domestic industry. The slabmaking process is where most of the flat-rolled industry's technological innovations occur, and where the great majority of the value of the product is added.[81] Nearly all of the technological advances in steelmaking reached over the past twenty years have had to do with the production of molten steel and the casting of semifinished products. Advanced automotive steels, for example, are developed through ladle-metallurgy and vacuum degassing technique at the steelmaking stage.[82]

As was demonstrated in Table 1 of Domestic Producers' January 4 Comments, meaningful relief for the flat-rolled industry is not possible absent an adequate remedy on

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(...continued)

import competition. Rather, they became importers.

Notably, press accounts from earlier this year report that AK Steel has considered shutting down more of its hot-end, by closing Middletown Works. "Steel Operation Struggles to Survive in Ohio Town," The Detroit News (Apr. 15, 2001) <http://detnews.com/2001/autos/0104/18/c04-212315.htm> (visited Jan. 11, 2002); see also "AK Steel at Crossroads," The Cincinnati Enquirer (Apr. 1, 2001) <http://enquirer.com/editions/2001/04/01/fin.ak-steel-at.html) (visited Jan. 11, 2002). The articles point to the very low prices for purchasing slab as a major contributing factor to the potential closure of the facility. Id. It is estimated that the idling of the blast furnace at Middletown Works could cause the loss of an estimated 4,000 jobs in Butler County. See id.

81 Remedy Tr. at 65 (Testimony of Mr. Lighthizer); id. at 75-76 (Testimony of Mr. Wolff). See also Domestic Producers' Prehearing Injury Brief (Sep. 12, 2001) ("Domestic Producers' Prehearing Injury Br.") at 13 (Public Version).

82 See Fruehan Report, appended to Domestic Producers' Prehearing Injury Br. at Exh. 2 at 8-9 (Public Version).

slabs,[83] and the tariff-rate quota ("TRQ") proposed by the Commission plurality is not an adequate remedy. The plurality's recommended TRQ on slab, with its very high 7 million ton duty-free quota level in the first year, would reduce the revenue effect by 40 percent and the operating income effect by almost 60 percent compared to Domestic Producers' proposed remedy.[84] The revenue effect would be insufficient to allow the industry to make the $7 billion to $9 billion in new investments needed to adjust to import competition, and would raise significant barriers to industry consolidation.[85]

As previously demonstrated, slab rollers will continue to have a significant cost advantage over those domestic firms which make their own slabs, and even though the slab-importing firms will experience some increase in their raw material costs as a result of the proposed remedy, it is very likely that the benefits that they realize from the tariffs on other flat-rolled products would offset – and perhaps more than offset – these increased costs.

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83 AK Steel has suggested that slab imports account for only 0.5 percent of the net value of commercial shipments, and reach the conclusion that slabs thus could only have had a minimal effect on the domestic industry's injury, and are not needed to remedy the injury. AK Steel's Comments at 2 (Nonconfidential Version). This claim is disproved by Table 1.

84 Comparison is between Domestic Producers' tariff proposal of a 40 percent tariff on all products with the plurality recommendation of the slab TRQ and a 20 percent tariff on other flat-rolled products. See Table 1 (Exh. 1). Removing slabs from the 40 percent remedy proposal would reduce the revenue effect by ten percent and the income effect by 38 percent. Id.

85 See Fruehan Report, appended to Domestic Producers' Prehearing Injury Br. at Exh. 2 (Public Version).

Respondents have argued throughout this proceeding that slab is simply not available from domestic producers. It has been suggested that no steel company would supply slab to its competitors when that same company could roll slab into a higher value, higher profit margin flat-rolled product.[86] While it is true that rational economic actors like to maximize revenue, it is clear that in an industry such as steel, such a result will require firms to produce and sell a mix of higher value-added and lower value-added products. If it were true that firms could operate by only selling higher value-added products, integrated mills would sell nothing but corrosion-resistant products, something that clearly does not occur. In any event, in a high fixed cost industry, rational economic actors would prefer to fully employ their productive resources if marginal costs can be covered. As noted at the Commission's hearing, efficient hot end capacity is currently idled, and Domestic Producers would far prefer to utilize this capacity by producing and selling slabs on the merchant market.[87]

An additional reason that an effective and substantial remedy must be placed on all flat-rolled products, including slab, is that any other course of action would create significant disparities in the treatment of domestic producers. To the extent that slabs are

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86 See USTR Request for Additional Information ("Throughout the investigation period, slab had a lower profit margin that other flat products. Why would domestic producers sell slab to operations like California Steel or Oregon Steel, which carry a sizeable freight charge from most U.S. slab producers, when they could make greater profits using those slabs to make value-added profits in their own facilities?").

87 Remedy Tr. at 193 (Testimony of Mr. Usher).

considered for disparate treatment, there will be enormous pressure to extend that principle to cover all imports of flat-rolled steel that is further processed, thereby undermining effective relief. Over time, as discussed above, such an approach would result in a situation in which the United States no longer makes steel at all, but simply processes steel that has already been made elsewhere. Indeed, this is a central reason why a consistent and full remedy must be applied to semi-finished products.

2. Respondents' Proposed Changes To The Commission's Recommended Slab Remedy Should Be Rejected

As previously demonstrated, the slab TRQ proposed by the Commission will do nothing to constrain imports.[88] The proposed quota levels are well above the current level of imports.[89] Incredibly, AK Steel not only continues to protest about the proposed TRQ, it advocates expanding the recommended quota level by two million tons annually.[90]

First, AK Steel claims that larger quotas are needed, as proposed quotas will result in increased slab prices, as domestic rollers bid up prices in an effort to acquire supply prior to reaching the TRQ threshhold.[91] These claims are without merit. Given estimated annualized slab import levels in 2001 of 5.6 million tons, the Commission's proposed 7 million ton TRQ is unlikely to be binding in any respect. This TRQ should be rejected

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88 Domestic Producers' Comments at 6 (Nonconfidential Version).

89 Id.

90 AK Steel's Comments at 12 (Nonconfidential Version).

91 Id.

and replaced with a straight tariff – not further expanded – if there is to be any relief to domestic producers.[92]

Second, AK Steel claims that at least two million tons of additional slabs are necessary given projected capacity increases,[93] a claim also made by Brazilian slab producers.[94] The estimates of available capacity and slab requirements are grossly inflated. For example, the purported 4.8 million ton requirement for AK Steel et al. is based on rolling capacity, not current capacity utilization.[95] From 1998 to 2001, the average industry capacity utilization rate has been 84 percent.[96] Other estimates are based

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92 As described above and in Domestic Producers' prior briefing, imposing consistent and full relief on slab is absolutely essential to meaningful relief for the industry. Domestic Producers therefore strongly urge the President not to adopt the TRQ recommended by the Commission plurality, but instead to impose meaningful tariff relief. Should the President nonetheless adopt a TRQ, however, any quota must properly account for countries excluded from the remedy. In particular, should the President determine to exclude Mexico from the ultimate remedy, see Letter from Robert Zoellick, United States Trade Representative, to Chairman Koplan, U.S. International Trade Commission at 3 (Jan. 3, 2002) (asking whether the Commission would have reached the same injury determination if imports from Canada and Mexico had been excluded from its analysis), the quota level must be adjusted to exclude Mexico's imports, just as it was earlier adjusted by the Commission to exclude Canada's exports. See Determination at 365. In 2000, which was the base period from which the 7 million ton quota was derived by the Commission, Mexico's shipments of slab to the United States were 1.64 million tons. At a minimum, this volume would have to be excluded from any quota calculation.

93 AK Steel's Comments at 12-14 (Nonconfidential Version).

94 Brazilian Respondents' Comments at 11-13.

95 Id. at 6.

96 Compiled from statistical data from AISI web site, http://www.steel.org.

on unconfirmed, reported capacities, intended sourcing arrangements, and planned investments – a total of 2.85 million tons.[97] The claimed capacity and alleged slab requirements are fiction.[98]

E. The Existence Of Antidumping And Countervailing Duty Orders Against Imports Of Certain Flat-Rolled Products Does Not Justify A Reduced Remedy In This Proceeding[99]

The Statement of Administrative Action ("SAA") that accompanied the Uruguay Round Agreements Act provides that, with regard to Section 201 proceedings, the President and the Commission should take into account other types of relief provided to the industry in question:

> In determining whether to provide relief and, if so, in what amount, the President will continue the practice of taking into account relief provided under other provisions of law, such as the antidumping and countervailing

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97 Id.

98 It may be true that the quota as proposed will constrain new rolling capacity from being brought on line. Few parties to this proceeding, however, have seriously suggested that what the U.S. industry needs to adjust to import competition is additional rolling capacity.

99 This section responds to another USTR question. See USTR Request for Additional Information ("The URAA SAA states that, with regard to Section 201 proceedings,

> In determining whether to provide relief and, if so, in what amount, the President will continue the practice of taking into account relief provided under other provisions of law, such as antidumping and countervailing duty laws, which may alter the amount of relief necessary under Section 203. URAA SAA at 294.

How should we comply with this instruction in these proceedings?").

> duty laws, which may alter the amount of relief necessary under section 203.[100]

In this case, a review of the law and the facts demonstrates that the existence of antidumping and countervailing duty orders against imports of certain flat-rolled products provides no basis to weaken the relief that is advocated by the Domestic Producers.

First, it has long been recognized that antidumping duty and countervailing duty relief addresses entirely different problems from those addressed by the Section 201 remedy.[101] Antidumping and countervailing duty orders eliminate the effects of unfair trade practices on a prospective basis. They do not necessarily cause import volumes to decrease or import prices to increase. Indeed, antidumping and countervailing duty orders place <u>no</u> restrictions on imports so long as they are fairly traded. In contrast, the whole purpose of Section 201 is to remedy serious injury caused to a domestic industry by imports from all sources and to facilitate the industry's adjustment to import competition.

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100 Statement of Administrative Action Accompanying the Uruguay Round Agreements Act (1994) at 964; <u>reprinted in</u> 1994 U.S.C.C.A.N. 4040, 4267.

101 Section 201 provides "broad-based relief fashioned to alleviate serious injury" and allows the domestic industry "sufficient time to adjust to freer international competition," while the antidumping and countervailing duty laws are designed to offset "the specific advantages enjoyed by the unfairly-traded imports." USITC Memorandum, <u>Legal Issues Regarding Hot-Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod from Brazil</u>, Inv. Nos. 701-TA-179-81, USITC GC-G-159 (June 10, 1983) 1983 ITC GCM LEXIS 15, *13.

Second, simply stopping imports from being priced unfairly – which is the most that antidumping and countervailing duty orders can accomplish – is not the same as creating a remedy for the serious injury that has already occurred. Simply maintaining the status quo by preventing any future import surges does not fulfill the purpose of Section 201. In its determination, the Commission recognized that relief must improve current conditions. For example, Chairman Koplan, Commissioner Miller, and Commissioner Hillman stated that their recommended relief is "is intended to significantly increase domestic revenues and substantially improve the industry's profitability, as the industry undertakes necessary efforts to restructure, consolidate, and maintain competitiveness."[102] The current antidumping and countervailing duty orders cannot bring about such effects.

Third, the steel products involved in this investigation can be supplied by numerous countries – many of which are not under antidumping or countervailing duty orders. Moreover, there is an established record demonstrating the ease with which supply may be shifted among producing countries and among the particular flat products involved.[103] Indeed, the widespread product and country shifting that has acted to lessen

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102 Determination at 366 (emphasis added).

103 For example, soon after an antidumping order was entered on hot-rolled steel from Japan, further orders had to be entered regarding plate and tin mill products from Japan. See Staff Report to the Commission, contained with Determination at OVERVIEW-4. Orders entered in 1999 on hot-rolled steel from Japan, Brazil and Russia had to be supplemented with additional orders on hot-rolled steel from other countries in 2001. Id.

the effectiveness of antidumping and countervailing duty relief has been a fundamental factor necessitating the type of comprehensive measures provided for under Section 201.[104] And this same ability to shift largely fungible sources of supply to countries or products not under order argues strongly against any lessening of relief on account of existing orders.

For all these reasons, the President should not allow the existence of current antidumping or countervailing duty orders to dissuade him from granting the significant tariff relief that is essential for the domestic industry.

IV. SIGNIFICANT TARIFF RELIEF FOR THE DOMESTIC INDUSTRY WOULD CLEARLY PROVIDE GREATER ECONOMIC AND SOCIAL BENEFITS THAN COSTS

A. The Economic and Social Benefits Of Significant Tariff Relief Will Be Enormous

Under the statute, the President is to "take all appropriate and feasible action within his power which . . . will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social

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104 The potential for product- and country-switching is great at this time. As the data compiled by the Commission show, for each flat-rolled product line, there are a large number of countries that have recently shipped significant quantities of these products to the United States, but which are not subject to any outstanding antidumping or countervailing duty order or investigation. These data show, for example, that, excluding Canada, 17 countries not subject to an antidumping or countervailing duty order or suspension agreement against hot-rolled imports shipped at least 10,000 NT of that product to this country in 1999 or 2000. See Commission's Dataweb, available at http://www.usitc.gov, for "Product G03,". For corrosion-resistant products, the comparable number is 19 countries. See data for "Product G06."

benefits than costs."[105] While the respondents consistently ignore the benefits of significant tariff relief, there can be little doubt that such relief would have enormous economic and social benefits that would far outweigh any costs.

Most fundamentally, significant tariff relief will save our domestic steel industry, and will allow the United States to retain its capacity to produce raw steel. The Commission plurality explained quite plainly that absent relief, the suffering of this industry will worsen:

> In the absence of appropriate relief, the domestic industry's operating losses will continue and worsen. In particular, the price depression evident in the market during the period examined will remain a major adverse market factor, and imports will capture an increasing share of the domestic market. Without appropriate relief, this trend is likely to worsen in its price and revenue impact on the domestic industry. The industry's inability to raise equity or debt capital would continue. Continued operating losses will prohibit the domestic industry from implementing its proposed investments and other aspects of its adjustment plans, thereby leaving it less viable and less able to compete with imports.[106]

The Commission went on to explain that "many companies are not likely to survive if such losses continue unabated . . . . {c}losing companies will in turn affect the towns and communities where the companies are located and will have a significant impact on the local economy in each of the many communities in which these mills are located."[107]

All of these severe consequences, however, can be avoided by the significant tariff relief supported by Domestic Producers. A vibrant domestic steel industry -- which

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105 19 U.S.C. § 2253(a)(1)(A).

106 Determination at 367.

107 Id.

maintains its raw steelmaking capacity – would provide dramatic benefits for consumers and the economy. For example, American manufacturers have already enjoyed enormous gains from upgrades that the domestic industry made to its hot-end capacity since the early 1980's. Almost 50 percent of the steel produced in the United States consists of grades of steel that did not exist twenty years ago.[108] For example, ultra-low carbon steels with less than 40 parts per million of carbon did not exist two decades ago, but are now the standard for automotive sheet.[109] New high strength low alloy ("HSLA") and advanced HSLA steels have been developed for the transportation industry.[110] Further innovations, along with the incumbent benefits to consumers and the economy, will occur if the nation's raw steelmaking capacity is preserved.

A healthy domestic steel industry would also mean that consumers will continue to benefit from a stable source of supply and vibrant competition among domestic producers. Conversely, if increasing amounts of domestic capacity are lost, consumers will have fewer options in purchasing steel, and will become increasingly dependent on foreign sources of supply. Ultimately, a vibrant domestic steel industry is required if U.S. manufacturers are to continue to have access to the highest-quality steel, to benefit from the widest possible competition in the market, and to maintain a reliable source of supply in the United States.

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108 See Fruehan Report, appended to Domestic Producers' Prehearing Injury Br. at Exh. 2, p. 4 (Public Version).

109 Id.

110 Id.

Moreover, as Ambassador Zoellick recognized in initiating this investigation on behalf of the President, the domestic steel industry – which is dominated by the flat-rolled producers – is critical to the larger U.S. economy:

> America's steel industry and its more than 200,000 workers play an important role in our nation's economy, providing high-quality products to the manufacturing, construction and energy sectors. Steel mills support additional jobs in related industries and in the businesses that serve steel workers and their families.[111]

As the United States seeks to emerge from its current economic slowdown, a revival of the steel industry – and the effects of any such revival on the numerous communities and related industries that depend on this industry – will have profoundly positive consequences for the economy as a whole.

Significant tariff relief would also support the President's efforts to bring market forces to bear on a global industry that has been dominated by foreign government intervention, leading to the excessive and uneconomic steel capacity that has done so much to destabilize the market, injure U.S. producers, and misallocate resources around the globe. The President recognized this linkage when he identified the effect of this government intervention on the domestic industry:

> The U.S. steel industry has been affected by a 50-year legacy of foreign government intervention in the market and direct financial support of their

111 Letter from Robert B. Zoellick, U.S. Trade Representative, to Stephen Koplan, Chairman, U.S. International Trade Commission at 1 (June 22, 2001).

> steel industries. The result has been significant excess capacity, inefficient production, and a glut of steel on world markets.[112]

The President went on to explain that eliminating this excess capacity is absolutely critical to meaningfully address the steel crisis: "{a}bsent strict disciplines barring government support, direct or indirect, for inefficient steel-making capacity, the problems confronting the U.S. steel industry – and the steel industry worldwide – will only recur."[113] Significant tariff relief will force these foreign governments to seriously examine structural problems and market-distorting practices in their own countries, paving the way for meaningful market reforms and the success of the President's international initiative. This would not only provide enormous benefits to the U.S. steel industry as market forces returned to the sector, but would undoubtedly provide widespread benefits to consumers and economies at home and abroad as resources misallocated by foreign countries to the steel sector were redirected to higher-valued uses.

Aggressive action under Section 201 and the rest of the President's steel program will also have profoundly positive effects for the world trading system and the trade-liberalizing initiatives advocated by the President. By decisively addressing the long-term structural problems that have plagued this industry globally, the President's program will remove the steel issue as a continual trade irritant and will thereby directly enhance

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112 President's Multilateral Initiative, attached hereto as Exhibit 1.

113 Id.

the prospects of market-opening initiatives – leading once again to tremendous economic and social benefits.

These enormous social and economic benefits – which would flow from strong tariff relief and implementation of the President's steel program – are completely ignored by the respondents in their submissions. They demonstrate, however, beyond question that a strong remedy is in the national economic and social interest.

B. The Respondents Have Made A Number Of Erroneous Claims Concerning The Cost Of Relief

Certain of the claims made by the respondents with respect to the costs and benefits associated with tariff relief are simply wrong. For example, a number of respondents claim that the relief in question will not raise prices by a sufficient amount to benefit the domestic industry.[114] However, as discussed above, the proposed tariff would provide the domestic industry with an additional $1.42 billion in operating income, even if demand remains at the depressed levels of 2001.[115] Such relief would have a significant effect on this troubled industry. In fact, as discussed above, prices have already begun to increase as a result of this case.[116]

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114 See, e.g. Japanese Respondents' Comments at 19-20 (Public Document); Eurofer's Comments at 11 (Public Document).

115 Domestic Producers' Comments at Exh. 1 (Nonconfidential Version).

116 As Commissioner Devaney explained: "{t}he 40 percent duty increase would restore U.S. prices to levels that would justify the capital expenditure that the industry needs to improve its competitiveness. It would likewise allow the industry to pursue a program of debt retirement and capital accumulation." Separate Views of Commissioner Dennis M. Devaney on Remedy, contained

(continued...)

The fact is that respondents' arguments are based upon a fundamental contradiction. On the one hand, respondents claim that prices will go up so little that the domestic industry will receive no real relief. On the other hand, respondents simultaneously argue that consumers will be devastated by the effect of a tariff remedy.[117] It is of course entirely implausible to argue that consumers will be seriously harmed by a tariff that has no price effect in the market. In reality, as domestic producers have shown, the remedy they have advocated would have a modest effect on prices, sufficient to provide significant revenue gains for producers but in no way extreme or unreasonable in terms of the effect on pricing in the market.[118]

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116 (...continued) within Determination at 533. Likewise, Commissioner Bragg stated that "{t}he increased duties I recommend will provide the level of relief that is necessary to address the serious injury . . . to the domestic steel industries and facilities efforts by the domestic industries 'to make a positive adjustment to import competition and provide greater economic and social benefits than costs." Separate Views on Remedy of Commissioner Lynn M. Bragg, contained within Determination at 525.

117 See, e.g., Japanese Respondents' Comments at 25 (Public Document); CITAC Comments at 2 (Public Document).

118 To the extent consumers will face a small increase in the price of steel, Commissioner Devaney properly recognized that "the negative effects of this increase will be compensated for by the benefit to the industry." Separate Views of Commissioner Dennis M. Devaney on Remedy, contained within Determination at 534. Commissioner Bragg also recognized that a 40 percent tariff on flat-rolled products would increase revenues for the domestic industry "without unduly increasing the costs incurred by steel purchasers and the U.S. economy as a whole." Separate Views on Remedy of Commissioner Lynn M. Bragg, contained with Determination at 525.

Certain respondents claim that significant tariff relief will lead to shortages of certain products in the market. Once again, it is fundamentally implausible to suggest, as respondents do, that a remedy could have little or no price effect and yet result in significant shortages. In any event, respondents' argument that the remedy advocated by Domestic Producers would lead to shortages is wrong for several reasons. First, tariff remedies would not prevent any product from entering the market. Second, the U.S. Trade Representative's letter initiating the Section 201 investigation excluded a significant number of products not available from U.S. producers, and the domestic industry has agreed to a multitude of additional product exclusion requests during the ongoing review process by the TPSC.[119] Given the comprehensiveness of that effort, there is no basis whatsoever to believe that the remedy advocated by the domestic industry would result in product shortages of any kind.[120]

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119 See infra Section VI.

120 Domestic Producers would strongly object to the adoption of a short-supply mechanism, such as that suggested by several respondents. See, e.g., CITAC Comments at 17-19 (Public Document); CMC's Comments at 24 (Public Document). Such a mechanism is unnecessary for the same reason described in the text, namely that a tariff-based remedy would not preclude any imports from entering the country. Moreover, such a mechanism would merely invite the voluminous and never-ending litigation (and re-litigation) of the very types of claims that are currently being addressed through the comprehensive exclusion review process now being overseen by the TPSC. This would require the continued, and indeed magnified, devotion of resources by the domestic industry to defend and address such claims, all at a time when the industry is trying to recover from serious injury. It would likewise require an enormous devotion of resources by the government, and the process would inevitably be subject to political pressures that would constantly threaten its objectivity. In sum, a short supply
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C. Studies Submitted By The Respondents Purporting To Show That The Social Costs Of A Significant Remedy Outweigh Any Benefits Are Fundamentally Flawed

Respondents submitted several studies purporting to show that the economic and social costs of the remedies in question outweigh the benefits.[121] These studies fail to take into account many of the fundamental goals of the President's steel plan or to consider the core benefits, as described above, that Section 201 relief would provide. These include:

- The long-term benefits to maintaining a viable source of domestic steel supply, capable of continuing innovation and product development to meet key industrial needs;
- The long-term gains from maintaining the healthy competition in the U.S. marketplace resulting from a vigorous U.S. steel industry;
- The dramatic benefits that would flow to the steel industry from the elimination of global excess capacity, as well as the benefits to consumers from the reallocation of productive resources to higher-valued uses;
- The significant advantages that would flow to the market and consumers from domestic industry restructuring and efficiency enhancements that would be pursued during a period of Section 201 relief.

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120 (...continued)
mechanism would create an incredibly burdensome and inequitable mechanism to address a purported problem that in fact does not exist, given the nature of a temporary tariff remedy such as that Domestic Producers have advocated under Section 201.

121 See Crandall Study (Public Document); CITAC's Comments at "Estimated Economic Effects" (Public Document).

Any model that assumes away key benefits associated with the President's steel program, and fundamentally ignores the basic benefits flowing from Section 201 relief, is largely meaningless in this context. As such, these studies should be wholly disregarded.

In addition to their failure to measure the essential benefits flowing from Section 201 relief, these studies suffer from numerous technical flaws.[122] The study submitted by Robert W. Crandall (on behalf of Eurofer), for example, has a number of critical short-comings:

- Crandall insists that competition between mini-mills and the integrated mills was responsible for the serious injury suffered by the domestic industry.[123] The Commission specifically rejected this notion.[124]

- Crandall claims that steel prices are falling due to long-term reductions in the industry's costs, not because of imports.[125] But such an analysis wholly fails to account for the decline in profits suffered by the domestic industry. In fact, the Commission specifically found that the domestic industry suffered a decline in its operating income despite persistent declines both in the cost of raw materials and the overall costs of good sold.[126]

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122 The flaws are addressed in detail at Exhibits 9 and 10.

123 Crandall Study at 1-4 (Public Document).

124 Determination at 65.

125 Crandall Study at 8-10 (Public Document).

126 Determination at 54.

- Crandall's model uses employment and shipment data for the entire steel industry.[127] Such an analysis is far too general to measure accurately the effects of relief on the flat-rolled industry.[128]

- Correcting basic problems with incorrect data and parameter estimates in Crandall's model reduces his estimate of employment losses in steel consuming industries by over 80 percent.

Similarly, the CITAC study prepared by Trade Partnership Worldwide, LLP ("TPW") contains a number of basic errors:

- TPW uses a general equilibrium model that assumes that all markets are in long-run equilibrium before and after the policy change being studied.[129] Such a model is completely inappropriate for the steel industry, which is

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127 Crandall Study at 11 (Public Document).

128 It is noteworthy that in September 2000, Crandall testified before the Commission with regard to the effect of revoking certain antidumping and countervailing duty orders on corrosion-resistant steel. At that hearing, he said that "there's likely to be upward pressure on galvanized steel prices throughout the world for the next two years as demand remains extraordinarily strong." Transcript of U.S. International Trade Commission Hearing regarding the Five-Year Review of Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and United Kingdom, Inv. Nos. AA1921-197 (Review), 701-TA-231, 329-320, 322, 325-328, 340, 342 and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review), with Respect to Corrosion-Resistant Steel Products (Sept. 13, 2000) ("Five-Year Review Tr.") at 216 (Testimony of Dr. Crandall). In fact, the Section 201 record shows that the average unit value of coated steel products sold by domestic producers fell from $548 in the first half of 2000 to only $507 during the first half of 2001. Staff Report, contained within Determination at FLAT-28. Crandall also dismissed concerns that demand could be headed downward. Five-Year Review Tr. at 304 (Dr. Crandall) ("I think we are considerably less vulnerable to a substantial downturn than we would have been, let's say, in '72/'73, or '79/'80/'81, or even as late as 1990.") But this analysis was also wrong; U.S. consumption of coated products fell from 11.9 million NT in the first half of 2000 to 10.4 million NT in the first half of 2001. Staff Report, contained with Determination at FLAT-47.

129 TPW Study at Technical Appendix Sec. A.

not in long-run equilibrium due to the existence of enormous levels of uneconomic capacity around the world.

- TPW's model is designed to describe financially healthy industries. The assumption that producers do not experience losses is actually hard-wired into the model.[130] Such a model plainly cannot be used to describe conditions in the industry that produces flat-rolled steel, given the enormous losses that have been suffered.

- TPW's model assumes that the labor supply is perfectly elastic at a fixed wage.[131] In the real world, an increase in the price of steel would likely lead steel-consuming industries to make adjustments to the wages paid to their employees. But the TPW model assumes that no such adjustment is possible, meaning that any downturn in a company's performance immediately results in layoffs. Such an unrealistic assumption is completely inappropriate for this type of analysis.

In sum, the methodological and technical flaws contained in the Crandall and TPW studies – designed to produce exaggerated and wildly implausible results – render them of no value in gauging the true measure of social and economic benefits and costs associated with Section 201 relief.

V. THE PRESIDENT SHOULD NOT EXCLUDE DEVELOPING COUNTRIES FROM ANY RELIEF, AS THE EXCEPTION FOR DEVELOPING COUNTRIES IN ARTICLE 9 OF THE WTO SAFEGUARDS AGREEMENT DOES NOT APPLY

Domestic Producers have previously demonstrated that no Article 9.1 developing country exception is warranted in this case for carbon and alloy flat products. As demonstrated in Domestic Producers' January 4 Comments, imports from developing

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130 See Hertel, Thomas W. and Marimas E. Tsigas, "Structure of GTAP," available at http://www.gtap.agecon.purdue.edu/resources/download/86.pdf.

131 TPW Study at Technical Appendix Sec. G.

countries which individually are less than three percent of total imports, when cumulated, exceed nine percent of total imports.[132] This is true whether one considers such imports over the last full year (2000)[133] of the Commission's period of investigation or the entire 1996-2001 period of investigation,[134] whether one considers all GSP beneficiaries or only those which are members of the WTO, and whether one considers all flat products or excludes tin mill products from the analysis. Article 9.1 of the Agreement on Safeguards simply does not apply.

Faced with these facts, respondents from developing countries stretch to find some combination of countries, products and time periods which will permit their shipments to escape any remedy under Section 203.[135] The extent of this cherry picking

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132 Domestic Producers' Comments at Exh. 14 (Nonconfidential Version). See also Domestic Producers' Posthearing Remedy Brief (Nov. 13, 2001) ("Domestic Producers' Posthearing Remedy Br.") at 41-42 and Exh. 11 (Public Version).

133 See Year 2000 Table (attached hereto as Exhibit 11).

134 See 1996-2001 Table (attached hereto as Exhibit 12).

135 See Comments regarding Remedy Determination Filed on Behalf of the Royal Thai Government and Thai Steel Producers (Jan. 4, 2002) ("Thai Comments") (Public Document); Comments regarding Remedy Determination Filed on Behalf of Indian Steel Producers (Jan. 4, 2002) ("Indian Producers' Comments") (Public Document); SAISI Comments (Public Document); Comments regarding Remedy Determination Filed on Behalf of Siderurgica Del Orinoco, C.A. (Jan. 4, 2002) ("Sidor Comments") (Public Document); Comments regarding Remedy Determination Filed on Behalf of the Government of Argentina (Jan. 4, 2002) ("Argentina Comments") (Public Document); omments regarding Remedy Determination Filed on Behalf of Siderar S.A.I.C. (Jan. 4, 2002) ("Siderar Comments") (Public Document); Comments regarding Remedy Determination Filed on Behalf of the Government of the Bolivarian Republic of Venezuela (Jan. 4, 2002) ("Venezuela Comments") (Public Document); Comments regarding Remedy Determination
(continued...)

is obvious when the full array of analytical proposals is considered. See Table 1. Such results-driven analyses should be rejected.

TABLE 1

Respondent	Country Proposal	Period Proposal	Product Proposal
Thai Producers	GSP Beneficiary Countries that are WTO members and are not CBERA & ATPA beneficiary countries.	Calendar Year 1998	All Flat-Rolled Steel (Slab, Plate, Hot-rolled, Cold-Rolled, Corrosion-Resistant, & Tin mill)
Indian Producers	GSP Beneficiary Countries that are WTO members	Calendar Year 2000	Flat-Rolled by Separate Sub-Product Categories
Argentine government, Argentine Producers and Venezuelan Producers	"all WTO member countries that were developing countries at the time"	January - June 2001 or Calendar Year 2000 plus January - June 2001	Flat-Rolled by Separate Sub-Product Categories
South African Producers' Comments	USTR's Developing Country Designations under the Countervailing Duty Law	1996 -2000 (or January - June 2000)	Flat-Rolled by Separate Sub-Product Categories

A. The President Should Consider The Relevant Developing Countries To Be Those Countries Designated As Beneficiary Countries For Purposes Of The Generalized System Of Preferences

Because the WTO does not maintain a definitive list of "developing countries" for the purposes of the Agreement on Safeguards,[136] USTR, on behalf of the President, has

(...continued)
Filed on Behalf of Industria Galvanizadora S.A. de C.V. (Jan. 4, 2002) ("Ingasa's Comments") (Nonconfidential Version); Comments regarding Remedy Determination Filed on Behalf of Developing Countries Parties (Jan. 4, 2002) ("Developing Countries' Comments") (Public Document).

136 This no doubt has to do with the fact that not all WTO Members which have identified themselves as developing country members have done so for all WTO purposes.

had to develop its own Article 9.1 methodology in past safeguard actions. The President has traditionally applied Article 9.1 by identifying those importers who are designated as beneficiary countries for the purposes of the Generalized System of Preferences ("GSP") as set forth in HTSUS General Note 4(a).[137] As previously demonstrated, using this methodology means that Article 9.1 does not apply, as the cumulated share of GSP beneficiaries' shipments exceeds nine percent.[138]

Some parties have argued that this analysis should be limited to those GSP beneficiaries which are members of the WTO, for to do otherwise would confer WTO benefits on countries which have not shouldered any of the WTO burdens.[139] Domestic Producers do not object to this analysis, and indeed, if adopted, this methodology would still mean that Article 9.1 does not apply, as the cumulated share of GSP beneficiaries' shipments exceeds nine percent.[140]

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137 See, e.g., Proclamation No. 7208, 64 Fed. Reg. 37,389, 37,390 (July 9, 1999) (Lamb Meat); Proclamation No. 7103, 63 Fed. Reg. 30,359, 30,360 (June 3, 1998) (Wheat Gluten).

138 Domestic Producers' Comments at Exh. 14 (Nonconfidential Version). This is true whether analyzed over the course of the entire POI or in the last complete year, and whether all flat products are analyzed together or whether tin mill products are excluded.

139 See, e.g., SAISI Comments at 16 (Public Document).

140 Domestic Producers' Comments at Exh. 14 (Nonconfidential Version). This is true whether analyzed over the course of the entire POI or in the last complete year, and whether all flat products are analyzed together or whether tin mill products are excluded.

South African Producers suggest that the President should include in his analysis only those nations designated as developing countries under countervailing duty law.[141] This argument should be rejected. The list developed for countervailing duty purposes is clearly inadequate, as a number of WTO member countries are simply missing from that list -- they are neither classified as developing nor as developed countries.[142] The more comprehensive GSP beneficiary list is thus clearly preferable, as has been recognized by at least one developing country respondent in this proceeding.[143] Indeed, the use of the more limited countervailing duty list would likely violate WTO principles by arbitrarily denying certain developing country members their distinct rights granted in Article 9.1.

In no event should Thai Producers' suggestion of excluding Caribbean Basin Economic Recovery Act ("CBERA") and Andean Trade Preference Act ("ATPA") members from the analysis be adopted. Thai Producers argue that, as a matter of U.S. law, CBERA and ATPA countries may not be included in the Article 9.1 analysis

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141 See SAISI Comments at 17 (citing 15 C.F.R. § 2013.1 (2001)) (Public Document). No reason is given for the proposed use of a list developed for the purposes of Article 27 of the Agreement on Subsidies and Countervailing Duties.

142 For instance, WTO Members Bulgaria, Croatia, Hungary, Lithuania, Poland, Romania and the Slovak Republic all exported steel to the United States during the POI, but are not referred to in 15 C.F.R. § 2013.1.

143 See Thai Comments at 2-3 (Public Document) ("Continued use of GSP designation for application of Article 9.1 is an obviously appropriate threshold requirement since it is an objective, pre-existing U.S. trade policy determination of trading partners that are to receive preferential treatment as developing countries.").

because separate statutory exception tests are in place for these nations.[144] These parties claim that CBERA and ATPA beneficiaries should be excluded because the separate statutory tests established for these countries would be made "nugatory" by the application of Article 9.1.[145] These arguments should be rejected. CBERA and ATPA countries are not only entitled to the benefits of separate statutory exception tests; they are also entitled to the WTO benefits bestowed upon them by Article 9.1.

B. The President Should Use The Same "Like Or Directly Competitive Product" Definition For His Article 9.1 Analysis As Was Used By The Commission In Its Injury Determination

Several parties argue that regardless of the Commission's analysis, the President should apply Article 9.1 on the basis of the product subcategories on which the Commission collected data.[146] These arguments ignore the fact that the Commission made its injury determination with respect to a single like or directly competitive product constituting carbon flat-rolled products.[147] As the purpose of Article 9.1 is to excuse from the remedy those developing country import sources which are so small that they could only

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144 See id. at 2.

145 Id.

146 See Sidor Comments (Public Document); Argentina Comments (Public Document); Venezuela Comments (Public Document); Siderar Comments (Public Document).

147 Commissioners Bragg and Devaney included tin mill products within flat-rolled products, while the other Commissioners excluded tin mill products from the scope of carbon flat-rolled products. Of the three Commissioners making an affirmative determination for tin mill products, two of them found a single like or directly competitive product encompassing all flat products, including tin mill products.

have a negligible effect on the domestic industry producing the same like or directly competitive product, Article 9.1 must be applied in a manner consistent with the Commission's injury analysis.

This approach is entirely consistent with the Agreement on Safeguards. As noted by one party, the text of Article 9.1 uses the phrase "product."[148] The use of the term in Article 9.1 is the same as the use of the term in Article 2.1, which sets out the conditions under which a WTO Member may apply a safeguard measure. Thus, under the language of the Agreement on Safeguards, the "product" used for analytical purposes of determining serious injury should be equivalent to the "product" used for analytical purposes of determining developing countries' import shares.

The reasons why are obvious. If "product" as defined for purposes of Article 9.1 is not limited to the definition of "product" used in the injury analysis, there is no logical place to draw the line. As the Commission noted in its Determination, the data collection subcategories within the like or directly competitive product of flat-rolled steel "themselves consist of pools of products of different grades, sizes, etc., as evident by the numerous requests regarding niche products."[149]

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148 See Indian Producers' Comments at 13, n. 23. (Public Document)

149 See Determination at 32, n. 40.

C. For Purposes Of His Article 9.1 Analysis, The President Should Consider Imports For 2000, The Most Recent Full Year During the Period of Investigation For Which Data Are Available

The extent to which respondents seek to cherry pick is nowhere more evident than in the various time periods they propose be used for purposes of Article 9.1. Thai Producers urge the adoption of 1998, claiming that because steel imports surged in that year, it should be used to determine whether a developing country played a significant or negligible role in causing serious injury to the domestic industry.[150] Argentine and Venezuelan Producers argue for the use of either interim 2001 data, or interim 2001 combined with calendar year 2000 data, arguing that the Agreement on Safeguards requires consideration of a "recent period."[151] Indian Producers agree with Domestic Producers that the appropriate year to analyze is 2000 (though differ with Domestic Producers on which countries should be included in the analysis).[152] South Africa argues for the period 1996-2000 or January - June 2000.[153]

The Agreement on Safeguards does not specify what period should be used in the application of Article 9.1, and the President has not, as yet, developed a consistent practice in choosing a period. Domestic Producers propose a period that gauges a developing country's relative import share for 2000, the most recent full calendar year

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150 See Thai Comments at 3 (Public Document).

151 See Sidor's Comments at 7-10 (Public Document); Siderar's Comments at 7-10 (Public Document).

152 See Indian Producers' Comments at Tables 3-5 (Public Document).

153 See SAISI Comments at 17-18 (Public Document).

during the period of investigation for which data are available. This is consistent with U.S. practice in other areas. For example, the Commission generally relies on the most recent full year data as the base period for assessing the likely impact of relief.[154] Similarly, in determining negligibility for antidumping and countervailing duty cases, the Commission looks to the most recent 12-month period for which data are available.[155]

While Domestic Producers believe full year 2000 provides the best basis for performing the analysis required by Article 9.1, any of a number of alternative time periods would produce the same result. As Domestic Producers noted in their January 4 Comments, using data for the full POI of the Commission (1996-1H2001) also demonstrates that all developing countries with import shares under 3 percent exceed 9 percent when cumulated.[156] Argentine and Venezuelan Producers propose the use of interim 2001 data, or in the alternative, data for year 2000 plus interim 2001.[157] While Domestic Producers believe that six months of data are insufficient as a general matter, they note that in this case, either of these two alternatives, when applied to the flat product cate-

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154 See Determination at 364, n. 58.

155 See Certain Cold-Rolled Steel from Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, USITC Pub. 3471, Inv. No. 701-TA-422-425 (Prelim.) and 731-TA-964-983 (Prelim.) (Nov. 2001) at 8.

156 See 1996-2001 Table (attached hereto as Exhibit 12).

157 See Sidor's Comments at 7-10 (Public Document); Siderar's Comments at 7-10 (Public Document).

gory, shows that no developing country exemption is justified under Article 9.1.[158] Similarly, using data for the second half of 2000 and the first half of 2001 yields a figure over 9 percent when flat products as a whole are considered.[159]

Thai Producers argue that 1998 should be the period used because import levels that year were "the genesis of the injury to the domestic industry" and the Article 9.1 exception should be applied on the basis of "whether (and which) developing countries played a significant or negligible role in causing the injury found."[160] This argument should be rejected. The Commission did not find that only imports in 1998 injured the U.S. industry. In fact, the Commission explicitly noted that "import levels remained high through 1999 and 2000, and that the corrosive effects of low-priced imports continued to injure the domestic industry even as the absolute volume of imports slackened somewhat."[161] Thus, judging negligibility based on 1998 import levels alone would be inappropriate. If the President chose to focus on the period of injury caused by imports, Domestic Producers propose that the period of 1998 to the first half of 2001 be used. The

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158 See 2001 Table (attached hereto as Exhibit 13) and Second Half of 2000 to First Half of 2001 Table (attached hereto as Exhibit 14).

159 See Second Half of 2000 to First Half of 2001 Table (Exhibit 14).

160 See Thai Comments at 3 (Public Document).

161 Determination at 65-66.

data for this period demonstrate that no developing country exemption under Article 9.1 is justified.[162]

South African Producers argue that data for 1996 to 2000, or data for the first half of 2000, be used to analyze negligibility under Article 9.1. While Domestic Producers do not oppose the use of full POI data, they disagree with using the first six months of 2000, as this is a selection which appears to be entirely results driven. South African Producers provide no rationale for consideration of the first six months of 2000 as the appropriate period.

D. Exclusion Of Developing Countries Would Substantially Undermine The Effectiveness Of Any Remedy Granted Under Section 203

Beyond the above analysis which demonstrates that there is no basis for excluding developing countries from relief, the President should take into account the substantial negative effect that any such exclusion would have on any remedy granted for flat-rolled products. Even though many of these countries individually shipped relatively small amounts to the United States in recent years, the potential for these countries to increase shipments cannot be ignored.

The President has recognized the problem of global overcapacity, a problem which exists in developing countries just as much as it does in developed nations. GSP beneficiary WTO Members with less than three percent of total imports collectively

162 See 1998 to First Half of 2001 Table (attached hereto as Exhibit 15).

exported 2.2 million tons of steel to the United States in 2000.[163] These same countries have almost 21 million short tons of excess capacity.[164] Thus these countries, if excluded from the remedy, could ship substantial amounts of flat-rolled products to the U.S. market, significantly undermining the remedy.

There are already clear examples of how quickly these countries could increase their exports if excluded from the remedy. For example, hot-rolled imports from Turkey increased from 49,661 short tons in January to October 2000 to 174,727 short tons in January to October 2001, as Turkey filled in following the imposition of AD/CVD relief on hot-rolled imports from other countries. Further, cold-rolled imports from South Africa jumped from 16,841 short tons in January to October 2000 to 70,248 short tons in January to October 2001, with Venezuelan cold-rolled imports increasing from 5,420 short tons to 39,149 short tons and Turkey's cold-rolled imports climbing from 37,989 short tons to 62,863 short tons in the same time period.[165]

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163 See Domestic Producers' Comments at 40-41 and Exh. 14 (Nonconfidential Version); Domestic Producers' Posthearing Remedy Br. at 41-42 and Exh. 11 (Public Version).

164 See Excess capacity table based on Metal Bulletin Research Report (showing combined excess hot-rolled and plate capacity of 20.9 million tons) (attached hereto at Exhibit 16).

165 See "Examples of Recent Developing Countries" Table (attached hereto as Exhibit 17).

Thai Producers argue that Article 9.1 includes a built-in surge control mechanism that could address later increases in imports from developing countries.[166] They cite the Wheat Gluten case, where imports of subject product from Poland, a country initially excluded from the safeguard measure pursuant to Article 9.1, surged to almost seven percent of total imports in the first five months of 1999.[167] While it is true that Poland's exemption was subsequently removed, this did not occur until late May of the following year.[168] Such a delay between a surge and any remedial action is too great to protect the domestic industry from further serious injury. Thus, this so-called "built-in surge control mechanism" cannot justify exempting a substantial number of countries from the remedy, especially given the fact that the WTO requirements for such an exemption have not been met.

Accordingly, the terms of Article 9.1 do not require any developing country exemptions in this case.

VI. THE PRESIDENT SHOULD NOT EXCLUDE ANY PRODUCTS FROM THIS CASE THAT CAN BE MADE BY THE DOMESTIC INDUSTRY

During the course of this proceeding, the USTR has received requests to exclude over 335 individual flat-rolled products from the scope of the Section 201 remedy. These requests were independently reviewed by each of the four companies comprising the

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166 Thai Comments at 5 (Public Document).

167 See Wheat Gluten, Inv. No. TA-204-2, USITC Pub. No. 3258 at II-9 (December 1999).

168 See Proclamation 7314, 65 Fed. Reg. 34,899 (May 26, 2000).

Domestic Producers. In the two responses filed to date with the USTR, Domestic Producers identified a total of 57 products that they do not object to excluding.[169] These products are in addition to the significant number of flat-rolled products that the USTR excluded in his letter requesting the initiation of the Section 201 investigation.[170] Domestic Producers, moreover, expect that they will identify still further product exclusion requests to which they will not object in their second supplemental appendix responding to product exclusion requests, which will be filed within the next several days.

As noted in Domestic Producers' Response to Exclusion Requests, the cardinal principle in evaluating such requests is that the President should only exclude a product from the remedy where such product is not made and cannot be made by the domestic industry and for which no substitutable or competitive product is made domestically.[171] This principle arises out of the fundamental purpose of Section 201 – which is the protection of domestic productive resources[172] – and the requirement that the Section 201

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169 See Domestic Producers' Response to Exclusion Requests (Dec. 5, 2001) ("Domestic Producers' Response to Exclusion Requests") at Appendix A (Public Version); Domestic Producers' Supplemental Appendix Responding to Exclusion Requests (Dec. 20, 2001) ("Domestic Producers' Supplemental Response") (Public Version).

170 Letter from Robert B. Zoellick, United States Trade Representative, to Stephen Koplan, Chairman, United States International Trade Commission, Inv. No. TA-201-73 (June 22, 2001) at Annex II.

171 See Domestic Producers' Response to Exclusion Requests at 1 (Public Version).

172 See, e.g., Carbon and Alloy Steel Products, USITC Pub. 1553, Inv. TA-201-51

(continued...)

remedy address the serious injury to the domestic industry and facilitate the domestic industry's adjustment.[173] It would plainly defeat the purpose of Section 201 relief to exclude a product from the remedy where such product is or can be produced by the domestic industry (or where the domestic industry produces an article which is competitive with or substitutable for that product). This standard for evaluating exclusion requests has been adopted by the President in recent Section 201 proclamations.[174]

A second key principle concerning exclusion requests is that the request must contain a complete physical description of the product sought to be excluded. It goes without saying that such descriptions are essential to permit an adequate review of the request by both the USTR and the domestic industry. In addition, complete product descriptions are essential to permit adequate verification of the merchandise by U.S. Customs officials and to reduce the possibility of circumvention of the remedy to be imposed.[175]

(...continued)
(July 1984) at 12 ("the fundamental purpose of {S}ection 201 {is the} protection of the productive resources of domestic producers.").

173 See 19 U.S.C. § 2252(e)(1).

174 For example, in the Line Pipe case, the Commission recommended that there be no exclusions from the proposed remedy because the Commission was "not persuaded that the domestic producers do not and cannot produce . . ." the products for which exclusion was requested. Circular Welded Carbon Quality Line Pipe, USITC Pub. 3261, Inv. No. TA-201-70 (Dec. 1999) at I-84. The President adopted this recommendation, and did not exclude the products in question. See Proclamation No. 7274, 65 Fed. Reg. 9,193, 9,195 (Feb. 23, 2000).

175 In the case of flat-rolled products, a complete physical description must, at a
(continued...)

Nevertheless, in their comments on potential action by the President under Section 201, many of the parties requesting exclusions have suggested that the President abandon these principles and permit product exclusions under inappropriate circumstances. These requests must all be denied.

Certain requesting parties, for example, have argued that products should be excluded – even though they are clearly produced by U.S. manufacturers – because such products are purportedly not produced in "sufficient" quantities in the United States.[176] These claims have no merit. Even to the extent that there may have been limited production in the United States of particular products, such production levels are very likely the result of the flood of low priced foreign merchandise that, as the Commission

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175 (...continued) minimum, contain information regarding chemical composition, width, gauge, tensile strength and yield strength. For certain products it may also be necessary to describe surface finish, unique coating formulas, electrical properties, and tolerances. On the other hand, product descriptions that are based solely on the end use of the product, contain foreign or proprietary specifications that are not commonly known, or contain missing or inadequate physical characteristics, are plainly inadequate. In Domestic Producers' Response to Exclusion Requests and Domestic Producers' Supplemental Response, Domestic Producers identified, and objected to, requests to exclude 93 products where the descriptions were deficient.

176 See, e.g., Comments regarding Remedy Determination Filed on Behalf of SAGA (Jan. 4, 2002) ("SAGA Comments") at 4 (seeking exclusion of products "made in limited quantities by the domestic industry") (Nonconfidential Version); Japanese Respondents' Comments at 17 (seeking exclusion of products "produced domestically in insufficient quantities") (Public Document); AG der Dillinger Hüttenwerke, et al. Comments at 8 (seeking exclusion of products "not produced in sufficient quantity") (Public Document); SAISI Comments at Annex I (seeking exclusion of thin gauge hot-rolled coil based on claim that "there is a shortage in domestic supply") (Public Document).

has found, resulted in serious injury. Once import relief is granted, one would expect to see increased domestic production as the industry returned to profitability. And while there is certainly no basis to believe that U.S. production levels will be inadequate for such products during the relief period, it is important to recognize that a tariff-based remedy, such as that advocated by Domestic Producers, would in no way restrict the continued availability of products from foreign suppliers.

Nor is there any merit to the claim that an exclusion should be granted where the domestic industry produces a particular product but has not yet been "qualified" to supply that product by certain purchasers.[177] Indeed, it would be illogical – and unjust – to grant exclusions based on a purported "failure" to qualify where the qualification process itself is often under the control or influence of the very parties that stand to gain by having the injurious imports excluded from the remedy. Rather, including such products within the scope of the remedy will encourage purchasers to expedite (rather than prolong) the qualification process, and in the long run, is likely to result in a greater number of qualified suppliers. This would benefit both the domestic industry as well as consumers. Again, to the extent that purchasers still seek to use foreign merchandise, all foreign products – including those that have already been "qualified" by the purchaser – will continue to be available under the remedy proposed by Domestic Producers.

177 CITAC Comments at 16 ("{o}bjections from non-qualified suppliers should not be the basis to deny exclusion requests") (Public Document).

Other requesting parties have claimed that exclusions are warranted where there is a single domestic supplier of a product because such a situation would "adversely affect the state of competition."[178] This claim is similarly without merit. As noted above, the purpose of Section 201 relief is to afford the domestic industry a remedy to address serious injury and to give the industry an opportunity to adjust. While the tariff-based remedy advocated by Domestic Producers would have a modest and reasonable effect on pricing, foreign imports will continue to be available and present in the U.S., with the result that competition in the market place will be maintained. Moreover, ensuring that the domestic industry retains the capability to serve as a reliable source of supply for the products in question will over the long run create a stronger and more competitive market. Conversely, granting an exclusion that would undercut relief to an industry that is already seriously injured would significantly undermine competition in the market place in the long term.

The requesting parties are also incorrect in arguing that Domestic Producers failed to adequately support their objections to the product exclusion requests.[179] As noted

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178 SAGA Comments at 8 (arguing that, in cases where there is only one potential domestic producer of a product, inclusion of that product in the remedy would "adversely affect the state of competition in the domestic market by forcing consumers . . . to rely on one source of supply") (Nonconfidential Version); Japanese Respondents' Comments at 18 ("{i}t is not acceptable to expect customers to rely on a single supplier") (Public Document).

179 See, e.g., regarding Remedy Determination Filed on Behalf of SSAB Oxelosund AB (Jan. 4, 2002) ("SSAB Comments") at 1 (Public Document); SAGA Comments at 10 (Nonconfidential Version); Comments regarding Remedy Determina-
(continued...)

above, knowledgeable production and sales personnel at each steel company comprising the Domestic Producers reviewed the product descriptions contained in the exclusion requests submitted to the USTR. In so doing, they were required to expend enormous time and financial resources during a period when the industry as a whole has been operating in a state of crisis. In Domestic Producers' responses to product exclusion requests, Domestic Producers provided the entire product description contained in the request, identified each individual company that can produce such product and, where appropriate, provided the range within which Domestic Producers could produce the product.

Contrary to the suggestions of one requesting party, preparing a "product specification sheet" for each product would not have provided any additional information.[180] Moreover, given that there were requests to exclude over 335 individual flat-rolled products, it would clearly have been unreasonable for each of four steel companies to supply the other types of documentation that the requesting parties have proposed, such as customer statements,[181] sales records,[182] information showing technical

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179 (...continued)
tion Filed on Behalf of Sandvik Steel Company (Jan. 4, 2002) ("Sandvik Comments") at 5 (Public Document).

180 See SSAB Comments at 1 (Public Document).

181 Id.

182 Sandvik Comments at 7 (Public Document).

capabilities,[183] offers for sales,[184] and records demonstrating a history of producing each product and the ability to supply it "on time and in sufficient quantities to be used commercially by the consumer."[185] The sheer impracticability of such a task was only further compounded by the fact that the individual product exclusion requests were repeatedly revised by the requesting parties.[186]

In short, we urge the President to deny all exclusions for flat-rolled products where (i) such product is or can be made by the domestic industry or where there is a substitutable or competitive product that is made domestically; and (ii) the product description contained in the public request does not fully and clearly describe all relevant physical characteristics.

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183 Id.

184 Id.

185 CITAC Comments at 15-16 (Public Document).

186 See, e.g., SAGA Comments at Attachment I (revising product descriptions for certain cold-rolled strip products) (Nonconfidential Version); Japanese Respondents' Comments at 17 ("we are still working to refine the definitions in hope that domestic mills can support the exclusion once the refinements are made") (Public Document).

CONCLUSION

The President has a historic opportunity not only to provide relief to a domestic industry badly in need of such relief, but to implement solutions that could help to eliminate much of the global excess capacity that has plagued the steel industry for decades. The President should seize this opportunity by implementing the significant tariff relief advocated by Domestic Producers.

Respectfully submitted,

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APPENDIX

NEW INFORMATION PROVIDED TO THE TRADE POLICY STAFF COMMITTEE

At our meeting on January 7, 2002, the Trade Policy Staff Committee ("TPSC") asked counsel for Domestic Producers to identify that information contained in our submissions to the TPSC that had not been provided to the International Trade Commission (the "Commission") during its investigation of this matter. As a general matter, most of the information provided to the TPSC in both submissions made on behalf of Domestic Producers was either provided to the Commission during the investigation, or was contained in the Commission's final determination and its final staff report. In some instances, however, Domestic Producers had to rely on information developed after the Commission's determination. The most significant of these instances are discussed below:

- Information Concerning Recent Developments in the Market; The submissions made by the Domestic Producers contain information on recent developments in the market for steel. For example, Section III of this submission discusses the effect of the Section 201 investigation in terms of recent price developments in the market. Information concerning developments in the marketplace since the Commission's determination was, of course, not available at the time the Commission made that determination.

- Information Concerning the Relief Proposed by the Commissioners: In both submissions, the Domestic Producers have analyzed the relief proposed by the Commissioners in their final remedy recommendations. Such analysis, of course, could not have been done until the Commissioners actually made their recommendations.

- Information Concerning the Relief Supported by Domestic Producers: The analysis of the relief supported by the Domestic Producers contained in Exhibit 1 of our initial submission to the TPSC differs from the analysis submitted to the Commission. Before the Commission, the Domestic Producers submitted information concerning the potential effects of their proposed relief using 2000 as a base year, as that was the last full year at the time of the Commission's remedy determination. In our first submission to the TPSC, the effects of this relief are described using 2001 as a base year to take into account the most recent available data.

- Information Responding to Studies Submitted by the Respondents: Section IV of this submission analyzes and responds to certain studies submitted to the TPSC by the respondents. Once again, because these studies were not submitted to the Commission, the Domestic Producers could not respond to such studies.

- Information Regarding Exclusions: Section VI of this submission addresses in some detail the numerous requests for exclusions put forward by various parties. Much of the process concerning exclusion requests has taken place since the Commission made its final determination. Accordingly, the analysis of exclusions in this submission contains information that could not have been provided to the Commission during its investigation.

EXHIBIT 1

For Immediate Release
Office of the Press Secretary
June 5, 2001

Statment by the President Regarding a Multilateral Initiative on Steel

This Administration is committed to free trade as an engine of growth. As part of our free trade agenda, we are committed to ensuring that American industry and American workers can compete on a level playing field. That is why, today, I am announcing my intent to launch an initiative to respond to the challenges facing the U.S. steel industry. This initiative will be designed to restore market forces to world steel markets and eliminate the practices that harm our steel industry and its workers.

The U.S. steel industry has been affected by a 50-year legacy of foreign government intervention in the market and direct financial support of their steel industries. The result has been significant excess capacity, inefficient production, and a glut of steel on world markets.

My decision to pursue this initiative comes after extensive consultations by Members of the Cabinet with our industry, our steelworkers, and interested Members of Congress. We have discussed the challenges facing U.S. steel manufacturers, and we understand that we have a critical stake in a healthy U.S. steel industry.

Thus, I intend to take the following steps. First, I am directing the United States Trade Representative, in cooperation with the Secretary of Commerce and Secretary of the Treasury, to initiate negotiations with our trading partners seeking the near-term elimination of inefficient excess capacity in the steel industry worldwide, in a manner consistent with applicable U.S. laws.

Second, I am directing the U.S. Trade Representative, together with the Secretaries of Commerce and the Treasury, to initiate negotiations on the rules that will govern steel trade in the future and eliminate the underlying market-distorting subsidies that led to the current conditions in the first place. Absent strict disciplines barring government support, direct or indirect, for inefficient steel-making capacity, the problems confronting the U.S. steel industry -- and the steel industry worldwide -- will only recur.

We see these negotiations -- and the goal of restoring market forces -- as being in our interest and in the interest of our trading partners and their steel industries. That is why we would like to work cooperatively with our trading partners in pursuing this initiative.

Third, I am directing the U.S. Trade Representative to request the initiation of an investigation of injury to the United States industry by the International Trade Commission under section 201 of the Trade Act of 1974. This action is consistent with our WTO obligations.

This three-part strategy, coupled with further restructuring of the U.S. industry, should help the industry meet the challenges it faces. I look forward to working together with the industry, the steelworkers, Congress, and our international trading partners in support of this important initiative.

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EXHIBIT 2

ECONOMY

U.S. Steel Mills Lift Key Domestic Prices

More Increases to Be Sought Amid Aim to Reverse Series of Annual Losses

By ROBERT GUY MATTHEWS
Staff Reporter of THE WALL STREET JOURNAL

Now that the looming threat of severe trade tariffs and quotas has scared many U.S. steel importers, American mills are raising prices domestically on key products used in automobiles, appliances, heavy machinery, construction and other prominent goods.

And, the mills warn, they will be seeking more price increases in the middle of 2002 as they try to reverse their lengthy series of annual losses.

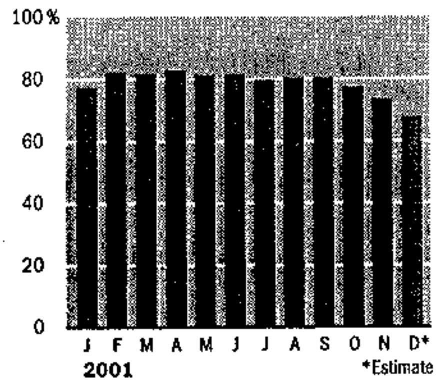
Prices for hot-rolled steel, used in automobiles and other products, have jumped 15% in the past 60 days. The U.S. mill price increases, which could bring the price of hot-rolled to $250 a ton in a few months, would still be below the cost it takes to make the steel. But the gap would be narrowed significantly. Last month, hot-rolled sold for about $210 a ton. This month, it is selling for about $225-$230 a ton. Buyers of cold-rolled steel, galvanized and wire-rod steel are also being asked to pay more.

The moves aren't being trumpeted by domestic steelmakers, who want the Bush administration to take over the industry's crushing "legacy" costs and limit foreign competition; President Bush could decide on the issue by the first week of March. Legacy costs are health and retiree benefits, excluding pensions, that are overwhelming the industry, which has shrunk considerably over the years.

"If you want the president to help, you don't make a lot of noise or public an-

Steel Supply Softening

Raw-steel capability rate, by percent



Note: The raw-steel capability rate is the amount of capacity at which steel plants are operating.

Source: Steel.org

nouncements, but the price increases are no secret within the industry," said Peter Marcus, steel analyst for industry tracker World Steel Dynamics.

While the price increases are positive news for steelmakers, this is an industry that has seen 28 steel companies—or more than half—file for protection under Chapter 11 of the U.S. Bankruptcy Code in the past four years; it has a long way to go before being considered healthy. Steel prices have been on the decline since the Asian steel market collapsed in 1997, when foreign producers switched their sales to the lucrative U.S. market. After a brief recovery in 1998 and an even briefer one in 2000, when hot-rolled prices peaked at about $330 a ton, the market crashed. Prices hovered around 20-year lows through most of 2001. To make matters worse, America's economic slump put even more pressure on price levels. Recently, the price competition spiraled so far down that even the least expensive of imported steel was selling at a loss.

Steelmakers haven't only been losing money from low prices, but also from continued low output. Throughout last year, the average production rate never broke 83% of capacity—the level needed to be profitable—and for long stretches hovered around 65%.

But a turnaround may be in the offing. Although raw demand isn't picking up, the U.S. market share of domestic producers is rising, due to the trade issue. U.S. Steel Corp., the country's largest steelmaker, late last month said its order rates, a key indicator of future demand, averaged about 90% of capacity in December, compared with 70% in November. Nucor Corp., the No. 2 steelmaker, said its orders are booked for the entire first quarter and starting to fill up for the second quarter.

Imports have been on the decline for months, due in part to the softening economy and prohibitively low steel prices. In November, the last month for available statistics, the level of imports dropped sharply from October. Hot-rolled fell 14.6%, galvanized fell 18.3% and cold-rolled fell 6.6%.

Aside from the import drop, American steelmakers are finding new demand because of the demise of LTV Corp., the country's fourth-largest steelmaker. After a year under Chapter 11 protection, LTV decided last month to liquidate its assets. LTV supplied about 8% of the domestic market for flat-rolled steel. With that chunk off the market, customers turned to U.S. Steel, Bethlehem Steel Corp. and AK Steel Holding Corp. Naturally, those makers raised their prices.

Still, some steel buyers say that U.S. mills may get too greedy with their price increases. Domestic steelmakers thought that they finally had the upper hand and tried to push through price increases. Yet after an initial jump in purchases, buyers balked and refused to pay the increases. Stuck with building inventories, domestic steelmakers blinked and began selling at rock-bottom prices, sparking a race for the bottom by all the mills. In the end, consumers came out the winners and the steelmakers were stuck with loads of red ink. A similar chain of events happened in 2000.

Robert S. Miller, chairman of Bethlehem Steel, indicated that the market is still iffy and there is no way to know if steel demand will support a string of quick price increases.

"We don't know if these announced prices will stick," said Mr. Miller. "Any further price increases at this point is a prayer, not a plan."

EXHIBIT 3

WORLD
STEEL
DYNAMICS

Angles

Dramatic recovery in USA steel sheet market.

Orders strong.
Hot-rolled band up about \$25/ton.

Steel price/cost economics

Key development

The USA steel industry has just experienced a "**pricing power crossover point**" in steel sheet products in WSD's opinion. The psychology of the market has just shifted to the favor of steel sellers.

New orders for steel sheet products have been strong

Based on what we are hearing from our contacts, it appears to us that new orders have been the strongest for the integrated (with blast furnace) steel mills that ship about onehalf their product on a one-year contract basis (including a sizable amount to the automotive industry). The backlogs for these mills may now be stretching into March. One producer tells WSD that its orders in December were double those in October. A factor that has been stimulating orders, besides the turnaround in spot sheet prices, was the closure of LTV's steel plants in early December. One contact thinks that large steel buyers are having a 'flight to quality suppliers."

New orders for the integrated mills that are not serving the one-year contract market, based on our feedback, have been strong, but possibly less strong than in the case of the mills discussed above. A number of these mills are either bankrupt and/or in a weak financial condition. Hence, steel buyers may have less confidence in placing longer-term orders with them. The mills we are thinking about here include WheelingPittsburgh Steel Corporation, Weirton Steel and WCI.

Orders for the mini-sheet mills have also been strong. We suspect that their order backlogs are fairly full through February.

Spot steel flat-rolled prices are up in the USA

The combination of reduced domestic capacity, low imports and the belief that prices could not dip much lower has apparently caused many steel buyers to change their view about the trend of pricing. They no longer are seeking to pare inventories.

Overall, the spot price of hot-rolled band for delivery in January 2002 may now be in the \$225-230 per net ton range, versus only \$200-210 per ton in early December 2001. Further, we hear that business is being booked for February delivery at a price of \$250 per ton in some cases. To make matters even worse for steel buyers, a top salesman at one of the mills expects the price in March to rise to about \$270 per ton.

Peter F. Marcus (201) 503-0902
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We understand that spot prices are also up by about the same amount in cold-rolled coil and galvanized coil. In fact, galvanized sheet may become the product that is the tightest in supply, according to one contact, because of the closedown of LTV's extensive galvanizing units.

Even though spot sheet prices are now up substantially, our contacts on both the buying and selling sides remain apprehensive about the outlook. The feeling is that underlying steel demand is not strong and that buyers are jockeying for position. Also, there is a worry that some steel buyers are double-ordering; i.e., they are placing orders with weaker steel mills at lower prices, and backing these orders up with orders at the stronger mills at higher prices.

The USA spot hot-rolled band price has once again zoomed to a level far above the world steel export price (which is remarkably depressed). Spot prices of hot-rolled band are about as follows per metric tonne.

- World export price = \$180 per tonne.
- Japanese spot price = \$180 per tonne.
- German/Border price = \$200 per tonne.
- Chinese spot price = \$245 per tonne.
- USA = \$230 per net ton = \$246 per tonne.

We do not expect formal price increase announcements

First, buyers no longer pay much attention to them. Second, the industry probably does not want to give the President a signal that it is less needy when it comes to his Section 201 decisions. In fact, losses are still huge for the major steel mills even at a price of \$250 per ton. *(Note: The peak spot price for hot-rolled band in the spring of 2000 was \$330 per ton.)*

Steel scrap prices are also moving up

The price of the industrial grades of steel scrap appear to be up by \$5-7 per gross ton in the past few weeks. Reasons include: a) some shift of steel production to the steel-scrap-using mini-sheet-mill sector due to the LTV and Geneva Steel closedowns; b) strong demand for scrap on the export market; and c) prices were so low that the collection of obsolete (old) scrap was sharply dampened. Reportedly, steel scrap exporters in some cases can obtain \$10 per ton more when exporting than when selling in the United States.

Steelmakers' losses will continue to be massive

Our contacts indicate that a sizable amount of business has already been booked for the first half of 2002 at low price levels. One large spot steel buyer indicates that, in the last two months of 2001, he had the opportunity to book his requirements for the first half of 2002 at only a \$20 per ton increase versus the price in November of 2001. *(Note: If so, he may have purchased hot-rolled band steel at a F.O.B. mill price of about \$225 -230 per ton.)*

Boosts in USA steel production may be slow

One of the reasons is financial constraint. One integrated mill informs us that, due to funds shortages, it has decided not to boost production until it can obtain a price for hot-rolled band of about $270 per ton. *(Note: We estimate that the fixed operating cost is about $89 per ton and the variable operating cost is about $188 per ton for a typical major steelma ker at the present time.)* It is expensive to boost steel output when considering the increased working capital needs. Moreover, many of the steel mills are still facing the problem of working through an unprofitable backlog, which adds to the financial pressures.

Another reason is the substantial reduction in domestic capacity in the past year. During the period from the first quarter of 2000 to the first quarter of 2002, USA gross hot strip mill capacity has been reduced, prior to the likely restart of LTV Steel's mills this spring, by about 24 million tons, or 28%.

Strong dollar remains a major negative

Imports of steel in steel-containing goods are on the rise. A number of major steel users are still considering the shift of more of their production to non-USA sources -- including Mexico.

The USA steel demand outlook is hard-to-call

The collapse of capital spending in the United States, which started in the fall of 2000, is a major negative for the steel mills.

The market for oil and gas drilling pipe has weakened recently due to the slackening of drilling activity reflecting lower oil and gas prices. The number of drilling rigs operating in the USA is down from a high of 1293 in mid-July, 2001, to 887 in late December 2001. However, one of our contacts pointed out that a recovery could begin to occur by mid-year because new gas wells tend to have a 50% decline in their production in the second year of operation. Production is "front end loaded" in order to maximize cash flows. This same contact thinks that USA natural gas output will be down by 6-7% by late summer because of reduced drilling activity.

Note: The HRB_{EQ} data in our new Global Steel Alert system is the hot -rolled band (HRB) gross production requirement (deliveries of HRB, plus the yielded requirement from all products from which it is made).

WORLDSTEELDYNAMICS

Global Steel Alert Regional Assessments -- USA/Canada (3 of 18)

(million metric tonnes annualized, unless otherwise specified)

Item	1997	1998	1999	2000	2001	1997 Q1	1997 Q2	1997 Q3	1997 Q4	1998 Q1	1998 Q2	1998 Q3	1998 Q4
HRBEQ Data													
Production	69.5	67.0	72.4	77.3	71.2	66.5	70.2	69.2	72.0	71.7	70.5	63.8	61.9
y/y % change		*-4%*	*9%*	*8%*	*-8%*					*8%*	*0%*	*-8%*	*-14%*
HRBEQ / crude steel	*0.61*	*0.58*	*0.64*	*0.65*	*0.68*	*0.60*	*0.61*	*0.61*	*0.62*	*0.59*	*0.59*	*0.56*	*0.59*
Plus: **Imports**	17.3	23.3	17.6	19.5	13.3	16.3	18.4	17.6	16.9	15.9	22.5	27.7	27.0
y/y % change		*34%*	*-22%*	*13%*	*-31%*					*-3%*	*22%*	*57%*	*60%*
Less: **Exports**	5.1	4.7	5.0	6.1	5.8	4.7	5.1	5.2	5.3	5.2	4.8	4.5	4.3
y/y % change		*-7%*	*7%*	*23%*	*-4%*					*10%*	*-6%*	*-13%*	*-19%*
Equals: **Gross apparent consumption** (GAC)	81.7	85.6	85.0	90.7	78.7	78.1	83.5	81.7	83.7	82.4	88.3	87.0	84.7
y/y % change		*5%*	*-1%*	*8%*	*-13%*					*5%*	*6%*	*6%*	*1%*
Less: Mill inv'y add'n	0.8	-1.7	-1.1	0.1	1.8	2.0	-0.8	0.8	1.2	-0.7	-1.3	-2.0	-2.8
Equals: **Apparent steel consumption** (ASC)	80.9	87.3	86.1	90.6	76.9	76.1	84.3	80.9	82.5	83.1	89.6	89.0	87.5
y/y % change		*8%*	*-1%*	*6%*	*-15%*					*9%*	*6%*	*10%*	*6%*
Mill inventory (not annual)	10.8	10.3	8.3	8.0	9.3	10.8	10.6	10.8	11.1	10.9	10.6	10.1	9.4
Mill inv'y months' supply	1.9	1.8	1.4	1.2	1.6	1.9	1.8	1.9	1.9	1.8	1.8	1.9	1.8
User inventory (not annual)	13.0	13.4	13.0	13.6	12.5	12.8	12.9	13.1	13.3	13.5	13.6	13.3	13.3
User inv'y months' supply	1.9	1.8	1.8	1.8	1.9	2.0	1.8	2.0	2.0	2.0	1.8	1.8	1.8
Ratio: User/mill months'	1.04	1.01	1.32	1.45	1.24	1.03	1.02	1.05	1.06	1.08	1.01	0.93	1.00
Less: User inv'y add'n	0.4	0.0	0.0	-0.5	-0.7	-0.4	0.4	0.8	0.8	0.8	0.4	-1.2	0.0
Equals: **Actual steel consumption**	80.5	87.3	86.1	91.1	77.6	76.5	83.9	80.1	81.7	82.3	89.2	90.2	87.5
y/y % change		*8%*	*-1%*	*6%*	*-15%*					*8%*	*6%*	*13%*	*7%*
Hot strip mill capacity	84.0	85.0	88.0	90.0	85.0	82.8	83.8	84.7	84.7	83.8	84.8	85.7	85.7
Prod'n / capacity	0.83	0.79	0.82	0.86	0.84	0.80	0.84	0.82	0.85	0.86	0.83	0.74	0.72
HRB USA spot price ($)	388	333	304	326	256	398	397	391	366	357	353	323	299
HRB oper. cost/tonne ($)													
Fixed labor cost	89	86	88	87	87	91	90	89	88	86	86	86	86
Other fixed	15	15	15	13	14	14	15	15	15	13	15	15	15
Raw mat'l + energy	153	145	129	136	130	153	153	153	153	145	145	145	145
Other variable	85	83	84	75	81	79	88	87	85	75	88	87	85
Total	342	329	315	312	312	337	346	344	341	318	334	333	331
HRB operating profit ($)	46	4	-11	15	-56	61	51	47	25	39	19	-10	-32
Crude Steel													
Effective capacity	119.7	122.1	126.2	126.4	124.7	118.1	119.4	120.7	120.7	120.1	121.5	124.1	122.8
Crude steel production	114.0	114.6	113.7	118.4	105.1	111.4	114.5	113.6	116.7	120.9	119.4	113.8	104.2
y/y % change		*0%*	*0%*	*5%*	*-11%*					*8%*	*4%*	*0%*	*-11%*
Crude prod'n /capacity	0.95	0.94	0.90	0.94	0.84	0.94	0.96	0.94	0.97	1.01	0.98	0.92	0.85
Business Indicators													
Industrial production	104	108	111	115	112	102	103	105	106	107	107	109	109
y/y % change		*4%*	*3%*	*4%*	*-2%*					*5%*	*4%*	*4%*	*3%*
Business confidence	1.12	0.91	1.03	0.89	0.93	1.14	1.20	1.12	1.02	0.98	0.98	0.82	0.86
y/y % change		*-19%*	*13%*	*-13%*	*7%*					*-14%*	*-18%*	*-27%*	*-16%*
Auto sales (millions)	16.6	17.0	18.5	18.9	18.8	4.0	4.4	4.2	4.0	3.9	4.8	4.1	4.2
y/y % change		*3%*	*9%*	*2%*	*0%*					*-3%*	*11%*	*-3%*	*5%*
Currency / $:													
Canadian $	1.38	1.47	1.49	1.49	1.55	1.36	1.39	1.38	1.40	1.44	1.44	1.52	1.51
y/y % change		*6%*	*1%*	*0%*	*4%*					*5%*	*4%*	*10%*	*7%*

WORLDSTEELDYNAMICS

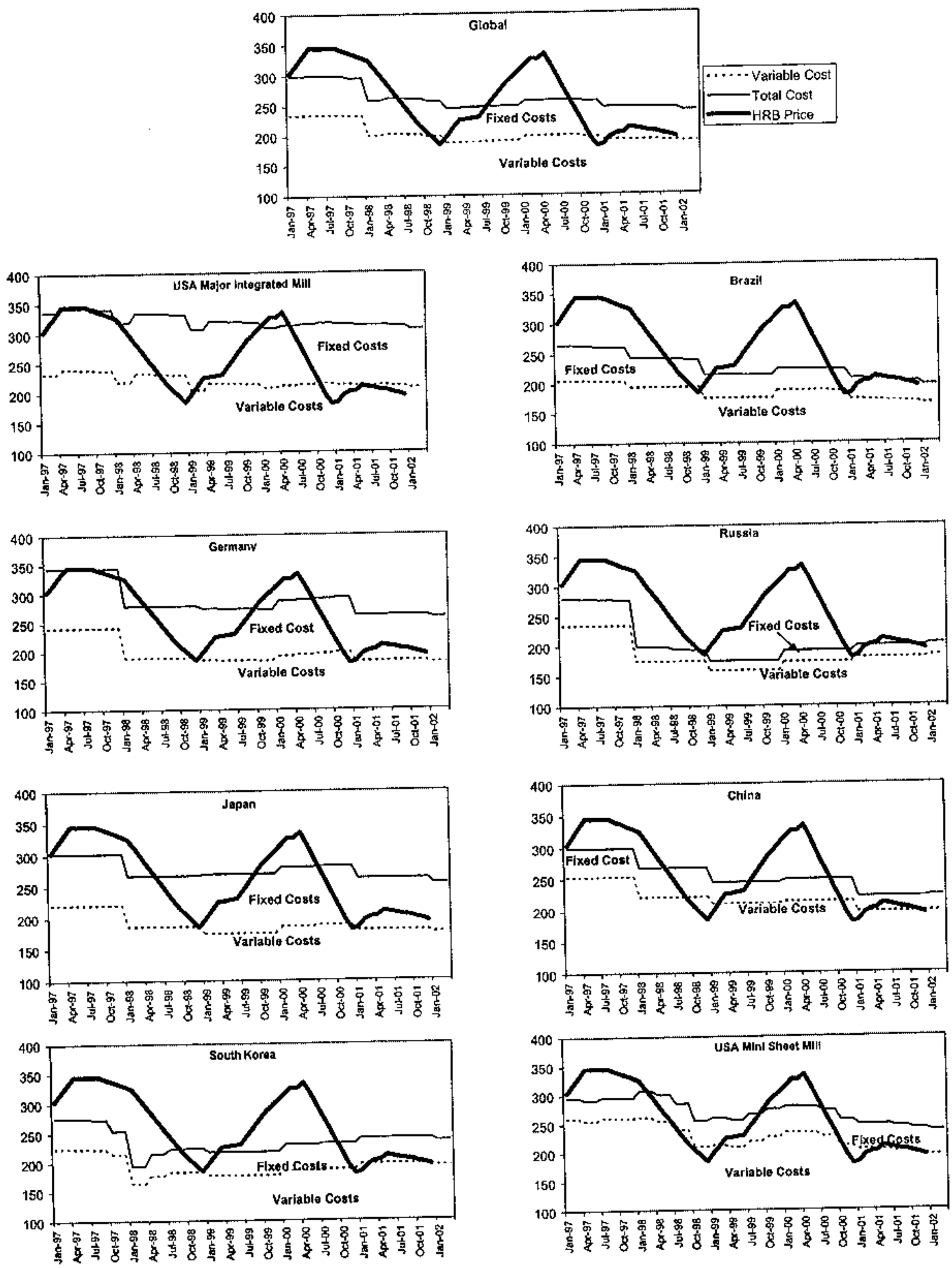
Global Steel Alert Regional Assessments -- USA/Canada (4 of 18)

(million metric tonnes annualized, unless otherwise specified)

Item	1999				2000				2001				2002
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4e	Q1e
HRBEQ Data													
Production	66.3	70.0	74.5	78.7	81.8	80.8	74.0	72.4	71.2	76.3	73.0	64.3	64.2
y/y % change	-8%	-1%	17%	27%	23%	16%	-1%	-8%	-13%	-6%	-1%	-11%	-10%
HRBEQ / crude steel	0.61	0.62	0.66	0.65	0.66	0.65	0.63	0.68	0.66	0.69	0.68	0.67	0.67
Plus: **Imports**	15.1	16.9	18.0	20.4	20.0	22.4	20.0	15.6	13.3	14.6	12.9	12.5	12.6
y/y % change	-5%	-25%	-35%	-25%	32%	33%	11%	-24%	-34%	-35%	-35%	-20%	-5%
Less: **Exports**	4.5	4.7	4.9	5.7	6.5	6.1	5.8	5.9	5.9	5.6	5.8	6.1	6.0
y/y % change	-14%	-1%	9%	35%	43%	29%	17%	3%	-9%	-9%	1%	3%	1%
Equals: **Gross apparent consumption** (GAC)	77.0	82.2	87.7	93.3	95.4	97.2	88.2	82.0	78.6	85.3	80.1	70.6	70.8
y/y % change	-7%	-7%	1%	10%	24%	18%	1%	-12%	-18%	-12%	-9%	-14%	-10%
Less: Mill inv'y add'n	-2.8	-2.0	-0.4	0.8	-2.4	0.4	1.2	1.2	0.8	1.6	1.6	3.2	-0.3
Equals: **Apparent steel consumption** (ASC)	79.8	84.2	88.1	92.5	97.8	96.8	87.0	80.8	77.8	83.7	78.5	67.4	71.1
y/y % change	-4%	-6%	-1%	6%	23%	15%	-1%	-13%	-20%	-13%	-10%	-17%	-9%
Mill inventory (not annual)	8.7	8.2	8.1	8.3	7.7	7.8	8.1	8.4	8.6	9.0	9.4	10.2	10.1
Mill inv'y months' supply	1.6	1.4	1.3	1.3	1.1	1.2	1.3	1.4	1.5	1.4	1.5	1.9	1.9
User inventory (not annual)	13.0	12.9	12.9	13.3	14.0	14.4	13.3	12.8	12.8	12.6	12.5	12.1	13.3
User inv'y months' supply	1.9	1.8	1.8	1.8	1.8	1.8	1.7	1.9	2.0	1.8	1.9	2.1	2.1
Ratio: User/mill months'	1.22	1.30	1.35	1.39	1.57	1.57	1.33	1.33	1.36	1.26	1.23	1.10	1.12
Less: User inv'y add'n	-1.2	-0.4	0.0	1.6	2.8	1.6	-4.4	-2.0	0.0	-0.8	-0.4	-1.6	1.2
Equals: **Actual steel consumption**	81.0	84.6	88.1	90.9	95.0	95.2	91.4	82.8	77.8	84.5	78.9	69.0	69.9
y/y % change	-2%	-5%	-2%	4%	17%	13%	4%	-9%	-18%	-11%	-14%	-17%	-10%
Hot strip mill capacity	86.8	87.8	88.7	88.7	88.8	89.8	90.7	90.7	83.8	84.8	85.7	85.7	76.9
Prod'n / capacity	0.76	0.80	0.84	0.89	0.92	0.90	0.82	0.80	0.85	0.90	0.85	0.75	0.83
HRB USA spot price ($)	281	290	311	333	358	360	318	269	264	268	266	226	246
HRB oper. cost/tonne ($)													
Fixed labor cost	88	88	88	88	87	87	87	87	87	87	87	86	84
Other fixed	14	15	15	15	13	13	13	14	14	14	14	14	14
Raw mat'l + energy	129	129	129	129	134	136	137	138	130	130	130	130	129
Other variable	77	88	87	85	74	75	76	77	82	81	81	80	78
Total	306	319	318	317	308	311	313	315	313	312	312	310	305
HRB operating profit ($)	-25	-29	-7	17	50	49	5	-46	-49	-44	-47	-84	-59
Crude Steel													
Effective capacity	124.9	126.2	126.2	127.6	124.7	126.1	127.5	127.5	123.0	124.4	125.8	125.8	125.5
Crude steel production	108.3	112.1	113.3	120.9	124.1	125.2	117.4	107.0	107.1	110.3	107.2	95.7	96.3
y/y % change	-10%	-6%	0%	16%	15%	12%	4%	-12%	-14%	-12%	-9%	-11%	-10%
Crude prod'n /capacity	0.87	0.89	0.90	0.95	0.99	0.99	0.92	0.84	0.87	0.89	0.85	0.76	0.77
Business Indicators													
Industrial production	110	110	112	113	114	116	115	115	114	112	112	111	112
y/y % change	2%	3%	2%	3%	4%	5%	3%	2%	-1%	-3%	-3%	-3%	-1%
Business confidence	0.92	1.12	1.02	1.04	1.06	0.92	0.94	0.62	0.90	1.04	0.96	0.80	0.85
y/y % change	-6%	14%	24%	21%	15%	-18%	-8%	-40%	-15%	13%	2%	29%	-6%
Auto sales (millions)	4.3	5.0	4.8	4.4	4.8	5.1	4.9	4.1	4.5	5.0	4.5	4.8	4.9
y/y % change	11%	3%	16%	6%	11%	3%	2%	-7%	-6%	-3%	-8%	17%	9%
Currency / $:													
Canadian $	1.52	1.48	1.49	1.47	1.45	1.52	1.48	1.52	1.54	1.53	1.55	1.58	1.59
y/y % change	6%	3%	-2%	-2%	-5%	3%	-1%	3%	6%	1%	5%	4%	3%

Global Steel Alert HRB Fixed and Variable Costs versus World Export Price

($ per tonne)



USA Steel Consumption / Shipment Outlook

(million short tons)

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001*	2002E
First quarter shipments	20.5	22.0	22.5	24.9	24.9	26.4	27.5	25.1	28.6	24.7	24.5
Second quarter	21.0	22.6	24.2	24.4	25.9	27.0	27.0	26.8	28.5	26.4	26.5
Third quarter	20.5	22.2	24.1	24.0	25.2	26.0	24.9	27.1	27.3	24.9	27.0
Fourth quarter	20.2	22.2	24.3	24.2	24.9	26.5	23.0	27.2	24.7	24.0	26.5
Yearly shipments	82.2	89.0	95.1	97.5	100.9	105.9	102.4	106.2	109.1	100.0	104.5
Plus: Imports	17.1	19.5	30.1	24.4	29.2	31.2	41.5	35.7	38.0	29.7	28.0
Less: Imported semis converted to finished products by AISI-reporting companies	2.2	5.0	7.8	5.0	7.5	6.4	6.8	8.6	8.6	6.2	6.0
Less: Exports	4.3	4.0	3.8	7.1	5.0	6.0	5.5	5.4	6.5	5.9	5.5
Subtotal: Apparent steel demand	92.8	99.5	113.6	109.8	117.6	124.7	131.6	127.9	132.0	117.6	121.0
Less: Est. user/buyer inventory build	0.0	-0.5	4.0	-2.0	2.0	2.5	3.5	-2.0	-2.0	-4.4	0.5
Equals: Actual steel consumption	92.8	100.0	109.6	111.8	115.6	122.2	128.1	129.9	134.0	122.0	120.5
Index of activity in 15 steel consuming industries (1975 = 100)	134	143	156	163	171	184	196	207	224	217	219
Steel consumption per point of activity index (million tons)	0.692	0.699	0.703	0.686	0.676	0.664	0.654	0.628	0.598	0.562	0.550

Steel Shipment Breakdown

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001E	2002F
Big six	43.5	39.8	42.0	43.0	43.6	44.7	42.0	45.1	46.9	42.8	43.0
Thin slab/flat rolling minimills	1.0	2.0	2.6	3.3	4.8	7.1	7.9	10.8	11.6	11.0	13.3
Others	37.7	47.1	50.5	51.2	52.4	54.1	52.5	50.3	50.6	46.2	48.2
Total	82.2	89.0	95.1	97.5	100.9	105.9	102.4	106.2	109.1	100.0	104.5
Thin slab/flat rolling Minimills:											
Gallatin	-	-	-	0.3	0.9	1.0	0.9	1.3	1.2	1.2	1.3
IPSCO Montpelier (plate)	-	-	-	-	-	0.1	0.4	0.7	0.9	0.6	0.8
IPSCO Mobile (plate)									0.0	0.3	0.5
Delta (North Star/BHP)	-	-	-	-	-	0.4	0.7	1.0	1.4	1.3	1.5
Nucor Subtotal	**1.0**	**2.0**	**2.6**	**3.0**	**3.2**	**4.1**	**3.9**	**4.8**	**4.9**	**5.4**	**6.4**
Nucor Berkeley	-	-	-	-	-	0.5	1.0	1.4	1.8	1.6	2.0
Nucor Crawfordsville	0.9	1.0	1.2	1.3	1.5	1.5	1.3	1.6	1.4	1.5	1.6
Nucor Hickman	0.1	1.0	1.4	1.7	1.7	2.1	1.6	1.8	1.7	1.7	2.0
Nucor Hertford (plate)									0.1	0.6	0.8
Steel Dynamics Inc	-	-	-	-	0.7	1.2	1.3	1.8	1.9	2.0	2.2
Trico	-	-	-	-	-	0.3	0.7	1.2	1.2	0.2	0.6
Subtotal:	1.0	2.0	2.6	3.3	4.8	7.1	7.9	10.8	11.5	11.0	13.3
Others:											
Wheeling-Pittsburgh	2.1	2.3	2.4	2.4	1.9	1.8	2.4	2.3	2.4	2.0	2.1
All others (Weirton, Geneva, Tuscaloosa, Beta, minimills)	35.6	44.9	48.1	48.8	50.5	52.3	50.1	48.0	48.2	44.2	46.1
	37.7	47.1	50.5	51.2	52.4	54.1	52.5	50.3	50.6	46.2	48.2

* Q401 figure is estimated.

Key factors to watch

Here are some of the critical items:

- *Indications of underlying steel demand.* One key development will be capital spending intentions by USA businesses. About 40% of steel demand ties to capital equipment markets; hence, a recovery in capital spending is important.

- *Restarts of shuttered steel plants.* In WSD's opinion, it is highly likely that some group will purchase and restart the LTV Steel facilities. The LTV plants may be sold at auction on February 28, 2002. The potential reduction in cold-rolled coil costs for its "reconstituted" steel plants may exceed $80 per ton.

- *Further closedowns.* Partial or complete shutdowns would not be a surprise in the United States given the huge losses being incurred by many of the steel mills.

- *The President's actions with respect to the Section 201 trade case.* The President probably has until early March to announce his "remedy" for the domestic steel industry's plight. We expect that he may opt for a combination of tariffs and quotas. If the government were to be willing to absorb some of the mills' legacy costs for retired workers, a merger mania would hit the domestic steel industry in our opinion.

- *Pricing developments on the world steel export market.* We don't see much hope in the near term given declining steel demand in Europe, Japan and South America and a possible slowdown of the growth rate in China. Steel production globally remains in excess of demand in our opinion.

- *Global steel output.* It is starting to decline, but a far more severe cut is necessary in the next six months if the steel mills are to begin to sharply pare their inventories.

EXHIBIT 4

Equity Research
North America

Industry

Steel

Industry Overview

January 8, 2002

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Correction: Tighter Supply Boosts Steel Prices -...

COMPANIES FEATURED	
AK Steel (AKS)	Strong Buy
US Steel (X)	Neutral
Steel Dynamics (STLD)	Neutral-V
Nucor (NUE)	Underperform
Bethlehem Steel (BS)	Not Rated
Reliance Steel & Alum. (RS)	Neutral

BEST IDEAS	
AK Steel (AKS)	Strong Buy

RECENT REPORTS	
Steel Monthly Indicator	
Atwell/Frazer	January 4, 2002

- **Raising '02 & '03 Estimates -Upgrading AKS to Strong Buy**
  We are raising our '02 & '03 earnings estimate for all flat rolled producers in our universe. We are upgrading AK Steel to Strong Buy from Outperform (Target $16).
- **Tighter-Supply Driven Recovery in Steel Prices**
  Redistribution of LTV orders and expected restrictions on imports have fueled a rally in flat rolled steel pricing. Prices are up 10-12.5% since late Dec and heading higher.
- **Price Increases Planned for February**
  BS and X & AKS have raised flat rolled pricesfor Feb 1. NUE plans to increase coated and CR prices by $20 effective Feb 1.
- **Moving to Market Weight Sector Rating**
  We are raising our sector weighting on the steel shares to Market Weight from Underweight to reflect tighter supply conditions & better pricing.

Correction: Tighter Supply Boosts Steel Prices -...

Summary and Investment Conclusion

We are raising 2002 and 2003 earnings estimates for the flat rolled steel producers in our coverage universe. The culmination of the shut down of LTV's integrated capacity and the anticipated Section 201 restriction on steel imports resulting from tariffs have fueled a stronger than expected rally in flat rolled steel prices. One minimill producer tells us that orders taken today are being booked $40-50 ton higher than at the beginning of December. First quarter order books at least 85% full at some producers and we know of at least one that has halted taking orders in anticipation of higher pricing later in the quarter.

We are moving to a "Market Weight" sector rating from "Underweight" to reflect the improved supply/demand balance and pricing momentum. We are also upgrading AK Steel to Strong Buy from Outperform, raising our 12-month price target to $16 per share from $15.

LTV Closing Tightens Supply, Boosts Pricing

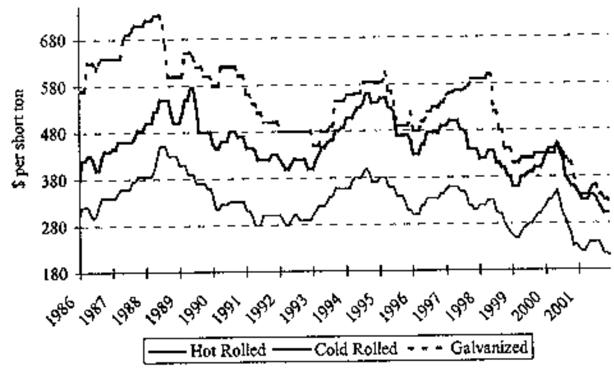
LTV's integrated steel making facilities were put on "hot idle" in December pending an auction to take place on February 27. LTV's customers have been forced to redistribute their business to remaining producers and the tighter supply has boosted hot rolled spot pricing as high as $225-230/ton. The average published price for hot rolled bands was $210/ton for December. Producers and service centers we have spoken with indicate that pricing still has upward momentum, despite no real acceleration in underlying steel demand.

Customers who source large quantity of steel from overseas are likely beginning to recast their buying domestically, pending the Section 201 import restrictions expected to be in place by March/April of this year.

Bethlehem Steel and US Steel have announced a $20/ton increase on flat rolled steel effective February 1. AK Steel has notified its customers of a $25/ton across the board price hike in its flat rolled products as well. Nucor, which already has a $10/ton hot rolled increase in the marketplace also announced intentions of rolling out a $20/ton increase on cold rolled and coated steel shipments effective February 1.

Exhibit 1

Flat Rolled Steel Pricing



Source: Purchasing Magazine

Raising 2002 and 2003 Earnings Estimates

We are raising 2002 and 2003 earnings estimates for the flat rolled steel producers in our coverage universe. Exhibit 1 highlights the changes to our estimates. We are now expecting 2002 benchmark hot rolled steel prices to average $25/ton higher than 2001 (vs. $12/ton, previously). Looking ahead to '03, we believe prices could improve an average of $25/ton (vs. $16/ton, previously). We are not changing our shipment forecasts, as we have not yet seen any signs of improving demand in the sector.

Upgrading AK Steel to Strong Buy from Outperform

We are raising our rating on AK Steel (AKS, $11.88) to Strong Buy and raising our near term price target to $16 per share from $15. Our price target is based on a P/E multiple of 10.5 our revised 2004 estimate of $1.90 per share discounted back to the present (at 7.7% WACC)

AKS has the least amount of leverage to changes in spot steel prices (25% spot business) as shown in Exhibit 3. However, we believe AK is the most attractive name in our group based on the combination of valuation (trading at 26% discount to our target price), projected free cash flow ($200M in 2002E) and profitability ($42/ton operating profit in 2002E).

AK Steel is order book is sold out for the next several quarters. And the company has raised its flat rolled steel prices $25/ton effective with February 1 shipments. In addition, Morgan Stanley auto analyst, Stephen Girsky, has raised his North American production forecast to 15.6M units from 14.9M units for 2002 and to 15.7M units from 15.4M for 2003. AK's book of business is roughly 50% automotive.

Separately, AK has announced its intention to sell Sawhill Tubular to Maneely Company. We believe AK could receive as much as $45 million from the sale.

US Steel Spin-Off Complete - Incorporating Interest Savings

At the start of the new year, USX's spinoff of its steel operations became effective. In addition to the improved outlook for steel pricing, our US Steel earnings estimates now incorporate $148 million in annual interest expense as provided by the company in its S-4 filing (vs. our pre-split interest estimate of $182 million per year). The company may provide updated interest expense guidance on its year end conference call later this month.

Exhibit 2

Morgan Stanley Steel Earnings Estimates (Old vs. New)

Name (Price)	FY2001E Old	FY2001E New	FY2002E Old	FY2002E New	FY2003E Old	FY2003E New	FY 2004E Old	FY 2004E New	Price Target Old	Price Target New	Rating
Integrated											
AK Steel ($11.88)	($0.16)	($0.16)	$0.23	$0.56	$1.13	$1.33	$1.76	$1.90	$15	$16	Strong Buy
US Steel ($18.40)	($2.44)	($2.44)	($0.70)	$0.51	$1.26	$1.95	N/A	$2.75	--	--	Neutral
Minimill											
Nucor ($53.90)	$1.26	$1.26	$1.40	$2.13	$3.16	$3.82	N/A	$4.30	--	--	Underperform
Steel Dynamics (11.86)	$0.12	$0.12	$0.35	$0.55	$1.46	$1.59	N/A	$1.78	--	--	Neutral-V
Service Centers/Processors											
Reliance Steel & Alum. ($25.76)	$1.28	$1.28	$0.86	$0.86	$2.37	$2.37	--	--	--	--	Neutral

Source: Company data, Morgan Stanley Dean Witter Research

Exhibit 3

Morgan Stanley Steel Earnings Estimates (vs. Consensus)

	FY 2001E MSDW	FY 2001E Consensus	FY 2002E MSDW	FY 2002E Consensus	FY 2003E MSDW	FY 2003E Consensus	FY 2004E MSDW	FY 2004E Consensus
Integrated								
AK Steel	($0.16)	($0.35)	$0.56	$0.17	$1.33	$1.04	$1.90	N/A
US Steel	($2.44)	($2.28)	$0.51	($0.10)	$1.95	$1.49	$2.75	N/A
Minimill								
Nucor	$1.26	$1.31	$2.13	$2.02	$3.82	$3.07	$4.30	N/A
Steel Dynamics	$0.12	$0.21	$0.55	$0.33	$1.46	$1.13	$1.78	N/A
Service Center								
Reliance Steel & Aluminum	$1.28	$1.26	$0.86	$1.27	$2.37	$2.19	N/A	N/A

Source: Company data, Morgan Stanley Dean Witter Research

Exhibit 3

Steel Spot Pricing Leverage Table

	1/7/2002 Price	Shipments Spot	Shipments Contract	Shipments to Auto	Shares Outst. (MM)	Impact of +$10 auto on EPS (a)	Impact of +$10 contract (b)	Impact of +$10 spot (b)
AK Steel	$11.99	25%	75%	55%	107.6	$0.20	$0.27	$0.09
US Steel (c)	18.46	50%	50%	15%	88.3	0.12	0.41	0.41
Nucor	53.70	90%	10%	15%	77.6	0.14	0.10	0.86
Steel Dynamics	11.94	60%	40%	25%	45.6	0.06	0.10	0.15

Source: Company data, Morgan Stanley Dean Witter Research

(a) Impact of $10/ton increase in steel selling price for autos.

(b) Impact of $10/ton increase in steel spot selling prices.

(c) Domestic operations only

Exhibit 4

Domestic Steel Valuation

	Price 1/7/02	EPS 2001E	EPS 2002E	EPS 2003E	EPS 2004E	P/E 2001E	P/E 2002E	P/E 2003E	P/E 2004E	EV/EBITDA 2001E	EV/EBITDA 2002E	EV/EBITDA 2003E	Price Target	Opinion
Integrated														
AK Steel	11.90	(0.16)	0.56	1.33	1.90	NM	NM	8.9	6.3	7.3	4.7	3.3	$16	Strong Buy
US Steel	18.40	(2.44)	0.51	1.95	2.75	NM	36.1	9.4	6.7	35.2	7.8	5.2	--	Neutral
Average						NM	36.1	9.2	6.5	21.3	6.2	4.3		
Minimills														
Nucor	53.93	1.26	2.13	3.82	4.30	42.8	25.3	14.1	12.5	9.1	6.7	4.6	--	Underperform
Steel Dynamics	12.00	0.12	0.55	1.59	1.78	100.0	21.8	7.5	6.7	11.0	8.1	4.7	--	Neutral-V
Average						100.0	21.8	7.5	6.7	10.1	7.4	4.7		
Service Center/Processors														
Reliance Steel & Aluminum	25.76	1.28	0.86	2.37	N/A	43.7	18.9	9.5	N/A	10.1	11.2	6.4		Neutral

Source: Company data, Morgan Stanley Dean Witter Research

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V = More volatile. We estimate that this stock has more than a 25% chance of a price move (up or down) of more than 25% in a month, based on a quantitative assessment of historical data, or in the analyst's view, it is likely to become materially more volatile over the next 1-12 months compared with the past three years. Stocks with less than one year of trading history are automatically rated as more volatile (unless otherwise noted). We note that securities that we do not currently consider "volatile" can still perform in that manner.

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EXHIBIT 5

BEFORE THE TRADE POLICY STAFF COMMITTEE

DECLARATION OF [ ]

I, [ ], the undersigned, hereby declare that to the best of my knowledge, information and belief:

1. I am [ ]. [ ]. Additionally, as part of my job responsibilities, I monitor conditions in the flat-rolled market, including conditions relating to imports and import pricing.

2. In early January of 2002, I was contacted by a representative of [ ] and informed that the company had received an unusual offer to buy galvanized (corrosion-resistant) flat-rolled steel.

3. The terms of the offer received by [ ] indicated that the galvanized product could be purchased so long as any increased tariff applied in the current 201 investigation did not exceed 24 percent. The offeror, **Bao Shing Steel**, promised to absorb any duty up to 24 percent for orders throughout 2002. If, however, the tariff exceeded 24 percent, Bao Shing's offer would be withdrawn and they would seek to renegotiate terms.

I declare under penalty of perjury that the foregoing statements are true and correct. This concludes my statement.

January 14th 2002 [ ]

(date) [ ]

EXHIBIT 6

BEFORE THE TRADE POLICY STAFF COMMITTEE

DECLARATION OF [ ]

I, [ ], the undersigned, hereby declare that to the best of my knowledge, information and belief:

1. I am [ ]. I have [ ]. As part of my job responsibilities, I monitor the market conditions of flat-rolled plate products, including conditions relating to cut-to-length plate imports and their pricing.

2. I was recently informed by [ ], that Wuyang Corporation (China) was offering ASTM A36 grade plate in thicknesses of 5/16" to 6" for $16.00/cwt fob loaded truck to Chicago's docks. Wuyang is reportedly considering a deal with Ferrostaal to split the costs of an increased tariff to 20 to 25% to continue to import flat-rolled plate at these prices into the United States market should a tariff increase occur as a result of the safeguard investigation.

3. This price offer and plan to absorb tariffs would have significant adverse effects on the already depressed prices for plate currently existing in the marketplace, particularly on flat-rolled plate over 4". Remarkably, the quoted price amounts to $30 to $60 a short ton less than the substantially depressed existing prices for heavy carbon plate.

I declare under penalty of perjury that the foregoing statements are true and correct. This concludes my statement.

01/14/02 [ ]

(date) [ ]

EXHIBIT 7

Table 1.2: Actual and forecast consumption of traded steel sheet products, USA, 1991-2006* (m s.tons)

	Traded hot-rolled	% ch. yoy	Traded cold-rolled	% ch. yoy	Coated sheet	% ch. yoy	Total sheet products	% ch. yoy
1991	13.552	na	12.125	na	11.504	na	37.181	na
1992	15.343	13.2%	13.854	14.3%	13.913	20.9%	43.110	15.9%
1993	15.626	1.8%	14.354	3.6%	15.884	14.2%	45.864	6.4%
1994	19.618	25.5%	16.536	15.2%	18.185	14.5%	54.338	18.5%
1995	17.598	-10.3%	14.892	-9.9%	17.573	-3.4%	50.063	-7.9%
1996	19.425	10.4%	15.588	4.7%	18.951	7.8%	53.963	7.8%
1997	22.376	15.2%	16.500	5.9%	19.655	3.7%	58.532	8.5%
1998	24.419	9.1%	17.324	5.0%	21.258	8.2%	63.001	7.6%
1999	22.833	-6.5%	17.982	3.8%	22.668	6.6%	63.484	0.8%
2000	24.782	8.5%	18.278	1.6%	21.948	-3.2%	65.009	2.4%
2001e	21.357	-13.8%	15.134	-17.2%	19.008	-13.4%	55.499	-14.6%
2002*	22.487	5.3%	15.212	0.5%	20.172	6.1%	57.871	4.3%
2003*	24.692	9.8%	16.920	11.2%	21.936	8.7%	63.548	9.8%
2004*	25.794	4.5%	17.857	5.5%	23.148	5.5%	66.799	5.1%
2005*	25.573	-0.9%	17.747	-0.6%	23.148	-	66.469	-0.5%
2006*	26.235	2.6%	18.629	5.0%	24.251	4.8%	69.114	4.0%
1998Q1	5.683	10.7%	4.223	-0.3%	5.162	9.7%	15.069	7.1%
1998Q2	6.183	7.7%	4.476	8.2%	5.464	7.7%	16.123	7.8%
1998Q3	6.380	13.4%	4.411	8.7%	5.301	8.7%	16.092	10.5%
1998Q4	6.173	5.1%	4.213	3.5%	5.332	6.6%	15.718	5.2%
1999Q1	4.693	-17.4%	4.286	1.5%	5.488	6.3%	14.467	-4.0%
1999Q2	5.382	-13.0%	4.490	0.3%	5.845	7.0%	15.716	-2.5%
1999Q3	6.224	-2.4%	4.641	5.2%	5.693	7.4%	16.558	2.9%
1999Q4	6.534	5.9%	4.565	8.4%	5.643	5.8%	16.742	6.5%
2000Q1	6.474	38.0%	4.749	10.8%	5.925	8.0%	17.148	18.5%
2000Q2	6.949	29.1%	4.770	6.2%	5.861	0.3%	17.580	11.9%
2000Q3	5.889	-5.4%	4.583	-1.3%	5.322	-6.5%	15.794	-4.6%
2000Q4	5.471	-16.3%	4.176	-8.5%	4.839	-14.2%	14.487	-13.5%
2001Q1	5.342	-17.5%	4.006	-15.7%	4.807	-18.9%	14.154	-17.5%
2001Q2e	5.654	-18.6%	4.000	-16.1%	5.293	-9.7%	14.947	-15.0%
2001Q3e	5.125	-13.0%	3.491	-23.8%	4.610	-13.4%	13.226	-16.3%
2001Q4e	5.236	-4.3%	3.638	-12.9%	4.299	-11.2%	13.172	-9.1%
2002Q1*	5.401	1.1%	3.748	-6.4%	4.630	-3.7%	13.779	-2.7%
2002Q2*	5.842	3.3%	3.858	-3.5%	5.181	-2.1%	14.881	-0.4%
2002Q3*	5.401	5.4%	3.527	1.0%	5.071	10.0%	13.999	5.8%
2002Q4*	5.842	11.6%	4.079	12.1%	5.291	23.1%	15.212	15.5%
2003Q1*	6.173	14.3%	4.244	13.2%	5.401	16.7%	15.818	14.8%
2003Q2*	6.504	11.3%	4.464	15.7%	5.732	10.6%	16.700	12.2%
2003Q3*	5.952	10.2%	3.803	7.8%	5.291	4.3%	15.046	7.5%
2003Q4*	6.063	3.8%	4.409	8.1%	5.512	4.2%	15.983	5.1%

Data: CRU International, AISI,
Note: 1 short (net) ton = 0.9072 metric tonnes. e estimate. * forecast.

EXHIBIT 8

STEEL GROUP

CRU

CRU INTERNATIONAL LTD

Steel Sheet

Steel Sheet Quarterly Industry and Market Outlook

April 2001

Table 1.2: Actual And Forecast Consumption Of Traded Steel Sheet Products, USA, 1991-2005 (m s.tons)

	Traded Hot Rolled	% ch. year on yr	Traded Cold Rolled	% ch . year on yr	Coated Sheet	% ch. year on yr	Total Sheet Products	% ch. year on yr
1991	13.552	na	12.125	na	11.504	na	37.181	na
1992	15.343	13.2%	13.854	14.3%	13.913	20.9%	43.110	15.9%
1993	15.626	1.8%	14.354	3.6%	15.884	14.2%	45.864	6.4%
1994	19.618	25.5%	16.536	15.2%	18.185	14.5%	54.338	18.5%
1995	17.598	-10.3%	14.892	-9.9%	17.573	-3.4%	50.063	-7.9%
1996	19.425	10.4%	15.588	4.7%	18.951	7.8%	53.963	7.8%
1997	22.376	15.2%	16.500	5.9%	19.655	3.7%	58.532	8.5%
1998	24.419	9.1%	17.324	5.0%	21.258	8.2%	63.001	7.6%
1999	22.833	-6.5%	17.982	3.8%	22.668	6.6%	63.484	0.8%
2000	24.782	8.5%	18.278	1.6%	21.948	-3.2%	65.009	2.4%
2001*	22.780	-8.1%	17.180	-6.0%	21.084	-3.9%	61.045	-6.1%
2002*	24.085	5.7%	18.133	5.5%	22.955	8.9%	65.173	6.8%
2003*	25.313	5.1%	18.629	2.7%	24.251	5.6%	68.193	4.6%
2004*	26.073	3.0%	19.290	3.6%	25.132	3.6%	70.495	3.4%
2005*	25.864	-0.8%	19.180	-0.6%	25.077	-0.2%	70.122	-0.5%
1998Q1	5.683	10.7%	4.223	-0.3%	5.162	9.7%	15.069	7.1%
1998Q2	6.183	7.7%	4.476	8.2%	5.464	7.7%	16.123	7.8%
1998Q3	6.380	13.4%	4.411	8.7%	5.301	8.7%	16.092	10.5%
1998Q4	6.173	5.1%	4.213	3.5%	5.332	6.6%	15.718	5.2%
1999Q1	4.693	-17.4%	4.286	1.5%	5.488	6.3%	14.467	-4.0%
1999Q2	5.382	-13.0%	4.490	0.3%	5.845	7.0%	15.716	-2.5%
1999Q3	6.224	-2.4%	4.641	5.2%	5.693	7.4%	16.558	2.9%
1999Q4	6.534	5.9%	4.565	8.4%	5.643	5.8%	16.742	6.5%
2000Q1	6.474	38.0%	4.749	10.8%	5.925	8.0%	17.148	18.5%
2000Q2	6.949	29.1%	4.770	6.2%	5.861	0.3%	17.580	11.9%
2000Q3	5.889	-5.4%	4.583	-1.3%	5.322	-6.5%	15.794	-4.6%
2000Q4	5.471	-16.3%	4.176	-8.5%	4.839	-14.2%	14.487	-13.5%
2001Q1e	5.088	-21.4%	3.842	-19.1%	4.715	-20.4%	13.646	-20.4%
2001Q2*	5.512	-20.7%	4.189	-12.2%	5.236	-10.7%	14.936	-15.0%
2001Q3*	5.952	1.1%	4.519	-1.4%	5.512	3.6%	15.983	1.2%
2001Q4*	6.228	13.8%	4.630	10.9%	5.622	16.2%	16.479	13.8%
2002Q1*	5.952	17.0%	4.519	17.6%	5.512	16.9%	15.983	17.1%
2002Q2*	6.008	9.0%	4.575	9.2%	5.842	11.6%	16.424	10.0%
2002Q3*	5.952	-	4.409	-2.4%	5.704	3.5%	16.066	0.5%
2002Q4*	6.173	-0.9%	4.630	-	5.897	4.9%	16.700	1.3%

Data: CRU International, AISI, Statistics Canada, Canacero

Note: 1 short (net) ton = 0.9072 metric tonnes. e estimate. * forecast.

EXHIBIT 9

Comments on Crandall's *The Futility of Steel Trade Protection*

Before the United States Trade Representative and Trade Policy Staff Committee

January 15, 2002

Submitted By

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Comments on Crandall's *The Futility of Steel Trade Protection*

Summary

Crandall reaches a series of incorrect conclusions regarding the potential effectiveness of a tariff remedy to the serious injury suffered by the domestic flat-rolled industry. As a threshold matter, Crandall ascribes the injury caused by the imports to domestic minimills despite a contrary unanimous finding by the Commission and despite the fact that the minimills themselves have been injured by the import surge. (The Commission has made this finding not only during the current investigation but also during several dumping investigations regarding individual flat-rolled products.) Second, Crandall confuses the secular decline in long-term real *prices* (as a consequence of gains in industry productivity) with the instant decline in *profits* during a period of peak demand. Third, Crandall falls prey to the inherent contradiction that pervades much of the respondents' analysis: a tariff remedy will devastate the steel consumer without benefiting the steel producers. A series of technical errors undermine his analysis of consumer effects of the remedy: he applies the remedy to nearly double the domestic steel employment that is covered by the investigation; he relies on his own outdated 1980 study to estimate the price effects of tariffs; he overestimates the employment sensitivity (and underestimates the wage flexibility) of industries that consume steel. This leads him to dramatically overstate the negative employment effects of steel consuming industries. Further, his analysis completely ignores any positive effect of the remedy on the behavior of foreign steel producers, President Bush's stated objective in initiating the Section 201 investigation.

Crandall incorrectly attributes injury to minimills rather than imports.

The Commission was unanimous in determining that the most important cause of serious injury suffered by the domestic flat-rolled steel industry was the surge in imports.[1] Evidence was presented at the hearing that over 250 *million* tons of excess foreign capacity was overhanging the domestic market.[2] Nonetheless, with no econometric or modeling support, Crandall asserts that increases in minimill capacity were responsible for the financial losses of domestic flat-rolled producers and that the cost structure of the minimills was driving domestic prices. This is despite the fact that total domestic minimill flat-rolled capacity is less than 17 million tons.[3] Crandall fails to recognize that domestic flat-rolled consumption actually increased more than domestic flat-rolled capacity during the POI.[4] Further, none of the imports that surged into the market were produced on minimills since foreign producer capacity has not employed minimill technology. In this case, foreign excess capacity rather than productivity differences was the principal determinant of depressed market prices. Thus, the notion that capacity constrained domestic minimill producers – as opposed to the foreign excess capacity nearly 20 times the volume of total minimill capacity -- were somehow responsible for causing loses during a period of record demand is unsupportable by the facts.

Crandall's key argument sidesteps the central issue of the investigation.

Crandall argues that price declines are caused by increases in productivity and that any attempt to reverse this trend is destined to fail. That is not the point: the reason the industry is

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[1] USITC Inv. No. TA-201-73. Determination (December 2001) at 1.
[2] Leo Gerard statement in transcript of November 6, 2001 ITC Section 201 hearing, page 108.
[3] Crandall's table 4 on page 7. Trico, a minimill that accounts for 2.2 million tons of flat rolled capacity, went bankrupt due to depressed prices resulting from the import surge.

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injured – minimills and integrateds alike – is that profits have fallen. This issue is not that there are productivity gains. Rather, it is that prices have fallen much faster than warranted by any increase in productivity. This is why profits declined during the highest period of flat-rolled demand in U.S. history. The decline in profitability and extraordinary decline in prices is directly attributable to surging import volumes.

Crandall's arguments are contradictory

On the one hand, Crandall argues that the proposed remedy will raise prices and injure downstream users. On the other hand, he argues that any price increase will be dissipated by increased mini-mill capacity. Which is it? There will be no investment at these price levels and even the most productive U.S. mills cannot survive.[5] The remedy plan proposes investments that will improve domestic mill productivity while negotiating to shutter inefficient foreign capacity—the underlying cause of depressed world and domestic prices.

Crandall's calculation of the price effects of the remedy is flawed.

Crandall's calculation relies on an outdated estimate that domestic steel prices increase 10 cents for every dollar increase in import prices. As Crandall argues on page 5, the expansion of mini-mills, which was not a significant factor in the early 1980s, would mitigate the impact of the remedy on domestic steel prices. This change in the conditions of competition of the industry since his study was written in 1980 means that Crandall's application of the 10-to-1

[4] Total imports of flat products + domestic commercial flat-rolled shipments exceeded the increase in domestic slab capacity between 1996 and 2000.

[5] Crandall concedes that at current spot prices for hot-rolled sheet (about $220 to $230 per net ton) there will be no new investment from minimills. The capital costs of a new minimill plant, Crandall states, are justified "whenever spot-market hot-rolled sheet prices are in the $350 to $375 range." Crandall, page 7. Thus, according to Crandall,

ratio exaggerates the impact of the tariff remedy. In general, determining the effect of import prices on domestic prices is a complex issue, requiring consideration of economic factors in a model such as COMPAS or the remedy model submitted by CRA. It cannot be adequately addressed by applying an arbitrary 10-to-1 ratio as Crandall advocates.

Crandall's estimate of a 10.5 percent increase in domestic steel prices relies on the incorrect assumption that consumers would not substitute domestic steel for imports (i.e., that there would be no decline in the market share of imports) if tariffs increased import prices. This assumption further exaggerates Crandall's estimate of the price effect of the tariff remedy. Crandall erroneously claims that ignoring substitution leads to an underestimate of the price effect: he suggests that accounting for substitution between imports and domestic steel may result in a price effect of 15 percent rather than 10.5 percent.[6] In fact, since consumers are able to substitute domestic steel for imports and their economic objective is to minimize their purchase costs, they will choose a mix of imports and domestic product that mitigates the increase in input prices. If substitution between imports and domestic steel is properly recognized, then the increase in domestic steel prices will be less than the 10.5 percent increase that Crandall calculated using his "no substitution" assumption.

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current spot market prices (even accounting for a 7 to 10 percent rise since December) are currently so depressed that they would have to increase by a further 60 percent to justify any new minimill investment.

[6] Crandall, page 13: "However, given the likely increase in the substitutability of imported for domestic steel in recent years, I also provide an analysis based on the assumption of a 15 percent increase in the average price of steel in the United States."

Crandall's calculations exaggerate the impact of the remedy on employment in steel-consuming industries.

Crandall's model incorrectly uses employment and shipments data and an input-output matrix for the broad steel industry (SIC 331).[7] Instead, any analysis of the effect of the remedy for the flat-rolled industry should use data for shipments of the flat rolled steel industry as defined in this Section 201 investigation. These flat-rolled steel products, rather than all steel, are the products whose prices will be directly impacted by the proposed tariff remedy. By using incorrect data in Table 5 and in his calculations, Crandall exaggerates the impact of the remedy: he assumes that the average increase in the prices of subject product will apply to all steel products. However, flat-rolled steel products are only a fraction of total steel production. Consider the employment numbers in Table 1. According to the staff report of the ITC, employment in the flat-rolled steel industry was 114,156 in 1997 and 101,032 in the first half of 2001. According to Crandall's table 5, employment in the broader steel industry (SIC 331) was 214,074. This comparison suggests that the flat-rolled steel industry account for only about one-half of the steel reported as an input in the input-output table that Crandall uses.

Crandall calculates the effects of 50% pass-through and 100% pass-through of steel costs into the prices of downstream products.[8] The 50% pass-through case is more plausible for the reasons that Crandall gives: steel-consuming durable goods producers will be able to substitute among inputs, and there is less than fully competitive behavior in these downstream industries.[9] In addition, the demand for downstream products is likely to be more inelastic than Crandall's elasticity range of –1.0 to –1.5.

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[7] Crandall's table 5 on page 11.
[8] In particular, he analyzes both cases in Tables A1 and A2, but he only carries through the full pass-through case to tables A3 and 6.
[9] Crandall, page 14.

Crandall's calculation of employment effects also relies on his assumption that the output elasticity of labor is 0.5.[10] Crandall provides no foundation whatsoever for this important assumption of the model. If the actual elasticity is closer to 0.25, which is more in line with the longer term labor contracts of the durable goods producers that use steel, then Crandall's calculations using the elasticity of 0.5 exaggerate the employment effects by a further 100 percent.

The consequence of correcting just these few selected problems in Crandall's calculations is a dramatic reduction in the estimated employment effects in the twelve major steel-consuming industries. Correcting for the data mismatch and incomplete pass-through, Crandall's estimate of employment reduction falls from 32,000 displaced workers to 5,000 displaced workers. These calculations are reported in Table 2. Finally, as Crandall points out on page 15, the estimated employment impacts would be halved yet again if the remedy involves 20% tariffs rather than 40% tariffs.

[10] Crandall claims on page 13 that the elasticity is "-0.5" but then corrects this error in his description on page 15.

Table 1: Production Workers in Steel

	1997	Q1 and Q2, 2001
Slab	19,154	16,798
Hot Rolled	30,747	27,844
Cold Rolled	26,138	24,078
Coated	23,715	21,490
Tin Mill	7,074	5,584
Plate	7,328	5,238
Flat Steel Total	114,156	101,032
Crandall's SIC 331 (1997)	214,075	

Sources: USITC Inv. No. TA-201-73, final staff report, public version, FLAT-20 to FLAT-26; Crandall's Table 5 on page 11.

Table 2: Employment Impact of the Remedy

	Crandall Estimate	Crandall Estimate Adjusted for Data Mismatch and Incomplete Pass-Through
Furniture and Fixtures	-3,259	-543
Metal Containers	-656	-109
Farm, Construction, and Mining Machinery	-4,022	-670
Metalworking Machinery	-3,604	-599
General Industrial Machinery	-2,864	-477
Electrical Industrial Equipment	-2,015	-336
Motor Vehicles and Parts	-7,243	-1,207
Other Transportation Equipment	-2,765	-461
Materials Handling Equipment	-1,308	-218
Special Industry Equipment	-1,284	-214
Service Industry Machinery	-1,856	-309
Household Appliances	-1,031	-172
TOTAL	-31,907	-5,317

Source for Crandall's Estimates: Table 6 on page 16.

EXHIBIT 10

Report on "Estimated Economic Effects of Proposed Import Relief Remedies For Steel" Issued by The Trade Partnership Worldwide LLC

Before the United States Trade Representative and Trade Policy Staff Committee

January 15, 2002

<u>Submitted By</u>

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SUMMARY

The report on "Estimated Economic Effects of Proposed Import Relief Remedies for Steel" issued by The Trade Partnership Worldwide, LLC, ("TPW study") should be given no credence. As a threshold matter, the report fails to consider the steel industry in the context in which the 201 investigation has taken place. There is currently nearly 250 million tons of excess steel capacity worldwide. The Section 201 investigation was part of the President's expressed plan to address this issue. Any purported "general equilibrium" approach that ignores the implications of the tariff remedy for the President's plan on worldwide steel overcapacity is fundamentally misguided. The President's plan also anticipated investment and consolidation in the industry. These key components of the analysis are completely absent from the TPW study.

On a technical level, the TPW study is irrevocably flawed. It uses an inappropriate economic model, starts with the false assumption that the U.S. steel industry is already healthy, and biases its other assumptions to create the maximum loss in jobs and output in steel-using sectors. It does not deal with the steel products under investigation. The report itself is not written to professional standards, because it fails to provide the minimal documentation required for peer review or validation. The report serves as an object lesson in how distorted results can be when the computable general equilibrium (CGE) approach to economic modeling is misused.

TECHNICAL CRITICISMS

INAPPROPRIATE ECONOMIC MODEL

The TPW study uses a general equilibrium model to generate its results. Unfortunately, the static CGE model used to generate the results issued by the TPW study is incapable of addressing either current conditions in global steel markets or the response of steel markets and the U.S. economy to tariffs on steel imports. A static model implicitly assumes that all markets are in long run equilibrium before and after the policy change being studied. The particular version of the model used in this study in addition assumes that capital is freely mobile between sectors. Therefore all adjustments that might be expected in response to a change in steel import policy, some of which could include changes in investment that require decades to work out, occur instantaneously and without cost. There is no mention of any pre-existing subsidies or trade restrictions being considered. Apparently, the model ignores these important conditions of competition distinctive to the steel industry. Finally, the assumption of long run equilibrium means that all industries in every country earn normal rates of return on capital, and that there is no excess capacity anywhere in the world. This assumption is clearly unrealistic. The static CGE model thus assumes away precisely the conditions in the world steel industry -- overcapacity and government subsidies -- that have damaged the U.S. steel industry.

The static CGE model does not deal with the products under investigation

The results of this modeling exercise are arguably not even relevant to the flat-rolled products industry, since the study conceals in an Appendix the definition of "Steel" used in the modeling study. Contrary to the appearances created by Table 1, the study in fact included the entire basic iron and steel industry ISIC 3710, not the products that are the subject of the ITC investigation. Thus it exaggerates the scope and economic impact of the import tariffs by assuming they are applied to all steel products.

The model is designed to describe financially healthy industries

The long run CGE model is designed to describe a hypothetical economy in which producers in each industry earn a competitive return on capital. The assumption that producers do not experience losses is an assumption that is hard-wired into the model. Although the current depressed financial condition of the industry is beyond dispute, the model does not take it into account.

The TPW study, for example, benchmarked the model's data to the year 2000, assuming that conditions in 2000 represented a stable equilibrium. Yet, according to the results of the ITC 201 investigation, the flat-rolled industry lost an average of almost $16/ton in 2000 or close to $500 million. Such conditions do not represent a stable equilibrium since price levels are below the industry's cost of production.

The model is incapable of analyzing how the domestic and foreign industries will adjust in the short run

Even if it had no other defects, the static, long-run CGE model is not capable of analyzing the impact of the remedy in the near to medium term. For example, it cannot describe how long it will take for capacity in the global steel industry to adjust.

In addition, its failure to include any trade barriers or subsidies in the base case means that the model ignores the possibility that U.S. trade policy could lead to changes in other countries that would improve the efficiency of steel markets worldwide. The fact that the model cannot recognize the current existence of overcapacity implies, in particular, that the results presented by the World Trade Partnership ignore the possibility that other countries will act to reduce overcapacity outside the United States caused by protection and subsidies provided to their domestic industries.

BIASED ASSUMPTIONS

All the dramatic results of the model stem from a set of assumptions that produce greatly exaggerated movements in industry output, nearly no change in domestic prices, and large losses in employment.

There are a number of key assumptions that must be made in setting up any general equilibrium model, and a range of possibilities for these assumptions. In every case, the assumptions chosen by the authors working for the TPW fall at an extreme end of this range, which serves to exaggerate output and employment impacts.

The static CGE model assumes that labor and capital equipment can be shifted from steel-using to steel-producing industries to facilitate reductions in output of steel using industries

The static model exaggerates quantity responses and therefore job losses by assuming that labor and capital are perfectly mobile between sectors. This assumption means that shifts in investment and labor skills that could take decades to accomplish are treated as occurring instantly and costlessly. For example, the model assumes counterfactually that capital equipment would be shifted out of other industries, such as automobile production, into steel. This faulty assumption causes the model to predict an unrealistically large drop in capacity in steel-using industries, such as automobile manufacturing. But it is physically impossible to transform an auto assembly line into a blast furnace or rolling mill. In reality, new capacity and plants have to be built to increase steel output, and existing auto capacity is either slowly amortized or shut down and sold for scrap value.

A self-serving representation of labor markets is adopted

The treatment of unemployment is not justified and not as described in the TPW study. This is not a model of a "recessionary economy." It is like every other CGE model, a full employment model. But it produces changes in "jobs" by making the extreme assumption that labor is supplied perfectly elastically at a fixed wage. Standard CGE models assume, on the other hand, based on clear empirical evidence, that labor supply is relatively inelastic in response to wage changes. When rigid wages are introduced together with inelastic labor supply, the result is involuntary unemployment. This type of unemployment is not consistent with a standard CGE model where all markets clear, so that the authors have to make the assumption about perfectly elastic labor supply to get fixed wages. The TPW assumption of fixed wages then produces the most extreme changes in jobs, since all adjustments occur in jobs and none in the wage rate. In a standard CGE model, in contrast, higher costs do cause lower demand for labor, but wages also fall so that in equilibrium some jobs are restored because employers can afford to hire more workers at the lower wages.

Moreover, the assumption of perfectly elastic labor supply implies that there is a disproportionately large reduction in labor inputs in steel using sectors, because the wage does not fall in response to lower demand for labor. If such a fall in wages occurred, employers would have an incentive to keep more workers employed.

Combining the assumption that labor is freely available at a fixed wage with assumptions previously-discussed that capital and labor are fully and costlessly mobile between sectors further exaggerates changes in output and jobs.

The combination of assumptions implies an insupportably high supply elasticity for U.S. steel products

The combination of assumptions about labor supply and capital mobility results in a U.S. steel supply curve that is virtually flat. The reported results show an implicit domestic steel supply elasticity of 15. (Results for total steel demand are not reported, so that it is impossible to determine how much of the drop in steel imports is due to a change in demand for steel or whether a reasonable demand elasticity is used).

CONCLUSION

All conclusions in the paper about job loss are based on inflated estimates of changes in output and employment. By employing assumptions and a model structure that produce large changes in output by industry in response to relatively small price and cost changes, and holding wages fixed to obtain the maximum impact on employment from any change in output, the model exaggerates job losses. The results reported for job losses, price changes, and changes in domestic production and imports are implausible in the extreme.

EXHIBIT 11

Imports from U.S. GSP 4(a) Developing Countries
Carbon and Alloy Flat-Rolled Steel
(Slab, Plate, Hot-Rolled, Cold-Rolled other than GOES, Corrosion Resistant, Tin)

Year 2000	Total Flat Volume (short tons)	% of Total Imports	Flat w/o Tin Volume (short tons)	% of Total Imports
Total Imports	21,473,525		20,893,329	
3% Threshold	644,206		626,800	
Antigua	0	0.00%	0	0.00%
Argentina	293,077	1.36%	293,054	1.40%
Bosnia*	294	0.00%	294	0.00%
Brazil	2,956,428	13.77%	2,911,619	13.94%
Bulgaria	26,732	0.12%	26,732	0.13%
Chile	33,400	0.16%	33,400	0.16%
Colombia	9,927	0.05%	9,927	0.05%
Costa Rica	436	0.00%	436	0.00%
Croatia	0	0.00%	0	0.00%
Czech Republic	53,174	0.25%	53,174	0.25%
Dominican Republic	340	0.00%	268	0.00%
Egypt	0	0.00%	0	0.00%
El Salvador	0	0.00%	0	0.00%
Guatemala	4,972	0.02%	4,972	0.02%
Haiti	10	0.00%	10	0.00%
Honduras	0	0.00%	0	0.00%
Hungary	30,576	0.14%	30,576	0.15%
India	873,586	4.07%	872,560	4.18%
Indonesia	280,199	1.30%	280,199	1.34%
Kazakhstan*	219,677	1.02%	219,677	1.05%
Kyrgyzstan	0	0.00%	0	0.00%
Latvia	0	0.00%	0	0.00%
Lithuania	2,600	0.01%	2,600	0.01%
Macedonia*	94,599	0.44%	94,599	0.45%
Montserrat Island*	0	0.00%	0	0.00%
Norfolk Island*	0	0.00%	0	0.00%
Peru	39	0.00%	39	0.00%
Philippines	0	0.00%	0	0.00%
Poland	29,451	0.14%	29,451	0.14%
Romania	412,934	1.92%	412,934	1.98%
Russia*	1,312,213	6.11%	1,312,213	6.28%
Slovakia	145,678	0.68%	145,678	0.70%
Slovenia	14	0.00%	14	0.00%
South Africa	281,550	1.31%	281,550	1.35%
Thailand	290,342	1.35%	290,342	1.39%
Tokelau Islands*	0	0.00%	0	0.00%
Trinidad & Tobago	0	0.00%	0	0.00%
Tunisia	4,609	0.02%	4,598	0.02%
Turkey	87,650	0.41%	87,650	0.42%
Venezuela	248,808	1.16%	248,556	1.19%
Total under 3%	**2,551,088**	**11.88%**	**2,550,730**	**12.21%**
Total WTO under 3%	**2,236,518**	**10.42%**	**2,236,160**	**10.70%**

Source: ITC Dataweb
* Non WTO members

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EXHIBIT 12

Imports from Developing Countries
Carbon and Alloy Flat-Rolled Steel
(Slab, Plate, Hot-Rolled, Cold-Rolled other than GOES, Corrosion Resistant, Tin)

Year 2001 (Jan-June)	Total Flat Volume (short tons)	% of Total Imports	Flat w/o Tin Volume (short tons)	% of Total Imports
Total Imports	7,192,683		6,929,592	
3% Threshold	215,780		207,888	
Antigua	0	0.00%	0	0.00%
Argentina	172,163	2.39%	171,946	2.48%
Bosnia*	0	0.00%	0	0.00%
Brazil	898,834	12.50%	873,846	12.61%
Bulgaria	22,978	0.32%	22,978	0.33%
Chile	2,489	0.03%	2,489	0.04%
Colombia	377	0.01%	377	0.01%
Costa Rica	0	0.00%	0	0.00%
Croatia	0	0.00%	0	0.00%
Czech Republic	5,850	0.08%	5,850	0.08%
Dominican Republic	38	0.00%	38	0.00%
Egypt	0	0.00%	0	0.00%
El Salvador	0	0.00%	0	0.00%
Guatemala	1,935	0.03%	1,935	0.03%
Haiti	0	0.00%	0	0.00%
Honduras	0	0.00%	0	0.00%
Hungary	14,302	0.20%	14,302	0.21%
India	73,236	1.02%	72,533	1.05%
Indonesia	20,118	0.28%	20,118	0.29%
Kazakhstan*	17,235	0.24%	17,235	0.25%
Kyrgyzstan	0	0.00%	0	0.00%
Latvia	0	0.00%	0	0.00%
Lithuania	0	0.00%	0	0.00%
Macedonia*	3,427	0.05%	3,427	0.05%
Montserrat Island*	0	0.00%	0	0.00%
Norfolk Island*	0	0.00%	0	0.00%
Peru	0	0.00%	0	0.00%
Philippines	0	0.00%	0	0.00%
Poland	42,168	0.59%	42,168	0.61%
Romania	59,591	0.83%	59,591	0.86%
Russia*	619,663	8.62%	619,663	8.94%
Slovakia	3,402	0.05%	3,402	0.05%
Slovenia	0	0.00%	0	0.00%
South Africa	149,895	2.08%	149,895	2.16%
Thailand	51,743	0.72%	51,743	0.75%
Tokelau Islands*	0	0.00%	0	0.00%
Trinidad & Tobago	0	0.00%	0	0.00%
Tunisia	0	0.00%	0	0.00%
Turkey	176,363	2.45%	176,363	2.55%
Venezuela	45,336	0.63%	45,336	0.65%
Total under 3%	**862,646**	**11.99%**	**861,726**	**12.44%**
Total WTO under 3%	**841,984**	**11.71%**	**841,064**	**12.14%**

Source: ITC Dataweb
* Non WTO members

EXHIBIT 13

Imports from U.S. GSP 4(a) Developing Countries
Carbon and Alloy Flat-Rolled Steel
(Slab, Plate, Hot-Rolled, Cold-Rolled other than GOES, Corrosion Resistant, Tin)

1996-June 2001	Total Flat Volume (short tons)	% of Total Imports	Flat w/o Tin Volume (short tons)	% of Total Imports
Total Imports	114,495,568		111,589,322	
3% Threshold	3,434,867		3,347,680	
Antigua	15	0.00%	8	0.00%
Argentina	1,169,019	1.02%	1,168,779	1.05%
Bosnia*	294	0.00%	294	0.00%
Brazil	14,594,510	12.75%	14,470,357	12.97%
Bulgaria	183,448	0.16%	183,448	0.16%
Chile	121,511	0.11%	121,511	0.11%
Colombia	23,619	0.02%	23,619	0.02%
Costa Rica	589	0.00%	589	0.00%
Croatia	0	0.00%	0	0.00%
Czech Republic	299,116	0.26%	299,116	0.27%
Dominican Republic	914	0.00%	356	0.00%
Egypt	0	0.00%	0	0.00%
El Salvador	308	0.00%	308	0.00%
Guatemala	11,679	0.01%	11,679	0.01%
Haiti	10	0.00%	10	0.00%
Honduras	0	0.00%	0	0.00%
Hungary	155,991	0.14%	155,991	0.14%
India	1,864,712	1.63%	1,862,983	1.67%
Indonesia	1,088,984	0.95%	1,088,984	0.98%
Kazakhstan*	544,277	0.48%	544,277	0.49%
Kyrgyzstan	25	0.00%	25	0.00%
Latvia	136,915	0.12%	136,915	0.12%
Lithuania	74,209	0.06%	74,209	0.07%
Macedonia*	253,242	0.22%	253,242	0.23%
Montserrat Island*	4	0.00%	4	0.00%
Norfolk Island*	610	0.00%	610	0.00%
Peru	134	0.00%	134	0.00%
Philippines	25,392	0.02%	25,392	0.02%
Poland	176,201	0.15%	176,201	0.16%
Romania	1,100,597	0.96%	1,100,597	0.99%
Russia*	12,838,869	11.21%	12,838,869	11.51%
Slovakia	687,178	0.60%	687,069	0.62%
Slovenia	39,458	0.03%	39,458	0.04%
South Africa	1,586,969	1.39%	1,586,969	1.42%
Thailand	579,818	0.51%	579,808	0.52%
Tokelau Islands*	920	0.00%	920	0.00%
Trinidad & Tobago	1,018	0.00%	1,018	0.00%
Tunisia	52,214	0.05%	52,190	0.05%
Turkey	850,407	0.74%	850,407	0.76%
Venezuela	1,466,034	1.28%	1,462,995	1.31%
Total under 3%	**12,495,831**	**10.91%**	**12,490,115**	**11.19%**
Total WTO under 3%	**11,696,484**	**10.22%**	**11,690,768**	**10.48%**

Source: ITC Dataweb
* Non WTO members

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EXHIBIT 14

Imports from U.S. GSP 4(a) Developing Countries
Carbon and Alloy Flat-Rolled Steel
(Slab, Plate, Hot-Rolled, Cold-Rolled other than GOES, Corrosion Resistant, Tin)

July 2000 - June 2001	Total Flat Volume (short tons)	% of Total Imports	Flat w/o Tin Volume (short tons)	% of Total Imports
Total Imports	16,871,599		16,324,283	
3% Threshold	506,148		489,728	
Antigua	0	0.00%	0	0.00%
Argentina	368,870	2.19%	368,653	2.26%
Bosnia*	0	0.00%	0	0.00%
Brazil	2,193,940	13.00%	2,145,868	13.15%
Bulgaria	40,442	0.24%	40,442	0.25%
Chile	22,300	0.13%	22,300	0.14%
Colombia	3,935	0.02%	3,935	0.02%
Costa Rica	436	0.00%	436	0.00%
Croatia	0	0.00%	0	0.00%
Czech Republic	31,934	0.19%	31,934	0.20%
Dominican Republic	183	0.00%	183	0.00%
Egypt	0	0.00%	0	0.00%
El Salvador	0	0.00%	0	0.00%
Guatemala	4,080	0.02%	4,080	0.02%
Haiti	0	0.00%	0	0.00%
Honduras	0	0.00%	0	0.00%
Hungary	26,318	0.16%	26,318	0.16%
India	359,813	2.13%	358,084	2.19%
Indonesia	105,535	0.63%	105,535	0.65%
Kazakhstan*	64,532	0.38%	64,532	0.40%
Kyrgyzstan	0	0.00%	0	0.00%
Latvia	0	0.00%	0	0.00%
Lithuania	0	0.00%	0	0.00%
Macedonia*	39,157	0.23%	39,157	0.24%
Montserrat Island*	0	0.00%	0	0.00%
Norfolk Island*	0	0.00%	0	0.00%
Peru	39	0.00%	39	0.00%
Philippines	0	0.00%	0	0.00%
Poland	45,409	0.27%	45,409	0.28%
Romania	201,935	1.20%	201,935	1.24%
Russia*	1,416,221	8.39%	1,416,221	8.68%
Slovakia	6,193	0.04%	6,193	0.04%
Slovenia	0	0.00%	0	0.00%
South Africa	241,780	1.43%	241,780	1.48%
Thailand	262,286	1.55%	262,286	1.61%
Tokelau Islands*	0	0.00%	0	0.00%
Trinidad & Tobago	0	0.00%	0	0.00%
Tunisia	11	0.00%	0	0.00%
Turkey	235,673	1.40%	235,673	1.44%
Venezuela	137,662	0.82%	137,430	0.84%
Total under 3%	**2,198,523**	**13.03%**	**2,196,334**	**13.45%**
Total WTO under 3%	**2,094,834**	**12.42%**	**2,092,645**	**12.82%**

Source: ITC Dataweb
* Non WTO members

EXHIBIT 15

Imports from U.S. GSP 4(a) Developing Countries
Carbon and Alloy Flat-Rolled Steel
(Slab, Plate, Hot-Rolled, Cold-Rolled other than GOES, Corrosion Resistant, Tin)

1998- June 2001	**Total Flat Volume (short tons)**	**% of Total Imports**	**Flat w/o Tin Volume (short tons)**	**% of Total Imports**
Total Imports	75,967,334		73,943,893	
3% Threshold	2,279,020		2,218,317	
Antigua	7	0.00%	0	0.00%
Argentina	1,007,308	1.33%	1,007,068	1.36%
Bosnia*	294	0.00%	294	0.00%
Brazil	9,565,929	12.59%	9,458,524	12.79%
Bulgaria	99,838	0.13%	99,838	0.14%
Chile	103,034	0.14%	103,034	0.14%
Colombia	20,396	0.03%	20,396	0.03%
Costa Rica	547	0.00%	547	0.00%
Croatia	0	0.00%	0	0.00%
Czech Republic	150,803	0.20%	150,803	0.20%
Dominican Republic	840	0.00%	306	0.00%
Egypt	0	0.00%	0	0.00%
El Salvador	308	0.00%	308	0.00%
Guatemala	11,640	0.02%	11,640	0.02%
Haiti	10	0.00%	10	0.00%
Honduras	0	0.00%	0	0.00%
Hungary	115,258	0.15%	115,258	0.16%
India	1,673,581	2.20%	1,671,852	2.26%
Indonesia	976,905	1.29%	976,905	1.32%
Kazakhstan*	517,871	0.68%	517,871	0.70%
Kyrgyzstan	25	0.00%	25	0.00%
Latvia	56,008	0.07%	56,008	0.08%
Lithuania	69,682	0.09%	69,682	0.09%
Macedonia*	199,888	0.26%	199,888	0.27%
Montserrat Island*	4	0.00%	4	0.00%
Norfolk Island*	0	0.00%	0	0.00%
Peru	107	0.00%	107	0.00%
Philippines	16,138	0.02%	16,138	0.02%
Poland	120,734	0.16%	120,734	0.16%
Romania	1,010,407	1.33%	1,010,407	1.37%
Russia*	8,073,903	10.63%	8,073,903	10.92%
Slovakia	434,483	0.57%	434,483	0.59%
Slovenia	1,061	0.00%	1,061	0.00%
South Africa	1,165,381	1.53%	1,165,381	1.58%
Thailand	579,584	0.76%	579,584	0.78%
Tokelau Islands*	0	0.00%	0	0.00%
Trinidad & Tobago	1	0.00%	1	0.00%
Tunisia	12,707	0.02%	12,683	0.02%
Turkey	541,011	0.71%	541,011	0.73%
Venezuela	790,160	1.04%	788,249	1.07%
Total under 3%	**9,676,021**	**12.74%**	**9,671,576**	**13.08%**
Total WTO under 3%	**8,957,964**	**11.79%**	**8,953,519**	**12.11%**

Source: ITC Dataweb
* Non WTO members

EXHIBIT 16

Developing Countries Possess Vast Amounts of Excess Flat-Rolled Steelmaking Capacity

	Flat-Rolled Carbon Steel Products					
Country	CTL Plate	Hot-Rolled	Plate + Hot-Rolled	Cold-Rolled	Corrosion-Resistant	Tin Mill
	Excess Capacity (Capacity - Production) (000s short tons)					
Argentina	-	325	325	518	6	29
Bulgaria	-	-	-	-	54	-
Chile	29	1,997	2,026	301	36	-
Colombia	-	-	-	-	29	-
Costa Rica	-	396	396	82	40	60
Czech Republic	21	55	76	67	11	-
Egypt	-	125	125	95	-	-
Guatemala	-	-	-	-	4	-
Hungary	553	573	1,127	551	674	51
Indonesia	281	4,464	4,745	1,378	762	17
Peru	62	1,279	1,340	-	-	-
Philippines	203	606	809	342	149	7
Poland	516	445	961	50	12	-
Romania	-	-	-	888	567	-
Slovakia	263	123	387	112	211	57
Slovenia	1,629	90	1,720	63	87	-
South Africa	193	3,858	4,051	(78)	385	185
Thailand	-	584	584	119	29	163
Turkey	-	1,466	1,466	(58)	50	143
Venezuela	64	717	780	6	-	-
TOTALS	**3,814**	**17,105**	**20,919**	**4,435**	**3,103**	**711**

Source: Metal Bulletin Research, "Global steel utilisation rates," April 27, 2001. Data are for the year 2000.
The countries identified are steel-producing GSP beneficiary nations that are WTO Members and individually accounted for less than a 3 percent import share of flat-rolled steel imports in 2000.

Developing Countries Possess Vast Amounts of Excess Flat-Rolled Steelmaking Capacity

	Flat-Rolled Carbon Steel Products					
Country	CTL Plate	Hot-Rolled	Plate + Hot-Rolled	Cold-Rolled	Corrosion-Resistant	Tin Mill
	Capacity (000s short tons)					
Argentina	-	2,756	2,756	2,116	694	165
Bulgaria	-	-	-	-	192	-
Chile	441	2,756	3,197	606	187	-
Colombia	-	-	-	-	132	-
Costa Rica	-	441	441	309	132	88
Czech Republic	165	1,433	1,598	485	99	-
Egypt	-	454	454	127	-	-
Guatemala	-	-	-	-	55	-
Hungary	661	2,205	2,866	1,321	1,114	143
Indonesia	551	6,283	6,834	2,756	1,251	331
Peru	838	2,122	2,960	-	-	-
Philippines	882	3,858	4,740	2,908	639	110
Poland	551	551	1,102	110	40	-
Romania	-	-	-	1,213	1,118	-
Slovakia	2,183	906	3,089	1,323	628	110
Slovenia	2,646	103	2,748	603	137	-
South Africa	661	7,551	8,212	2,132	1,129	536
Thailand	-	2,315	2,315	1,102	132	325
Turkey	-	3,031	3,031	1,323	298	375
Venezuela	110	1,819	1,929	287	-	-
TOTALS	**9,689**	**38,583**	**48,272**	**18,719**	**7,979**	**2,184**

Developing Countries Possess Vast Amounts of Excess Flat-Rolled Steelmaking Capacity

	Flat-Rolled Carbon Steel Products					
Country	CTL Plate	Hot-Rolled	Plate + Hot-Rolled	Cold-Rolled	Corrosion-Resistant	Tin Mill
	Production (000s short tons)					
Argentina	-	2,431	2,431	1,598	689	137
Bulgaria	-	-	-	-	138	-
Chile	412	758	1,171	305	151	-
Colombia	-	-	-	-	104	-
Costa Rica	-	45	45	227	93	29
Czech Republic	144	1,378	1,522	418	88	-
Egypt	-	330	330	32	-	-
Guatemala	-	-	-	-	51	-
Hungary	108	1,631	1,739	769	441	93
Indonesia	270	1,819	2,089	1,378	489	314
Peru	776	843	1,619	-	-	-
Philippines	679	3,252	3,931	2,566	491	104
Poland	35	106	141	61	28	-
Romania	-	-	-	324	551	-
Slovakia	1,919	783	2,702	1,210	418	53
Slovenia	1,016	12	1,028	540	50	-
South Africa	468	3,693	4,161	2,210	744	351
Thailand	-	1,731	1,731	983	104	162
Turkey	-	1,565	1,565	1,381	248	231
Venezuela	46	1,102	1,149	281	-	-
TOTALS	**5,875**	**21,479**	**27,354**	**14,285**	**4,876**	**1,473**

EXHIBIT 17

Examples of Recent Developing Countries
Substantial Increases in Exports to the United States

	Jan-Oct 2000 (Net Tons)	Jan-Oct 2001 (Net Tons)
Hot-Rolled		
Turkey	49,661	174,727
Cold-Rolled		
South Africa	16,841	70,248
Turkey	37,989	62,863
Venezuela	5,420	39,149

Source: IM-145.